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THE INTEGRATION OF SELECTED ECONOMIES IN TRANSITION INTO THE INTERNATIONAL TRADING SYSTEM, AND ITS IMPLICATIONS FOR THEIR TRADE WITH DEVELOPING COUNTRIES

Report by the UNCTAD secretariat

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ABBREVIATIONS

CEEC	Central and Eastern European countries
CEECT	Central and Eastern European countries in transition
CEFTA	Central European Free Trade Area
CIS	Commonwealth of Independent States
CMEA	Council for Mutual Economic Assistance
DC	developing countries
DMC	developed market-economy countries
ECE	Economic Commission for Europe
ET	economies in transition
EU	European Union
FDI	foreign direct investment
FSU	former Soviet Union
FTA	free trade area
GATS	General Agreement on Trade in Services
IMF	International Monetary Fund
NIS	newly independent States
OECD	Organisation for Economic Co-operation and Development
RF	Russian Federation
TRIMS	(WTO Agreement on) Trade-Related Investment Measures
TRIPS	(WTO Agreement on) Trade-Related Aspects of Intellectual Property Rights

COUNTRY GROUPS

CEEC: Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia

CEFTA: Czech Republic, Hungary, Poland, Slovakia, Slovenia (since 1997)

Central Asian NIS: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

CEECT: CEEC and FSU

CIS: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgizstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan

Baltic States: Estonia, Latvia, Lithuania

Former socialist countries of Eastern Europe: Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, Union of Soviet Socialist Republics

FSU: CIS countries and Baltic States

Former Yugoslavia: Bosnia and Herzegovina, Croatia, Slovenia, The Former Yugoslav Republic of Macedonia, Yugoslavia

Trans-Caucasian countries: Armenia, Azerbaijan, Georgia

N O T E

(i) In paragraph 91 of its Midrand Declaration, the ninth session of the United Nations Conference on Trade and Development, elaborating on the role of UNCTAD in assisting the effective integration of developing countries into the international trading system, stated that "specific interests of the economies in transition should also be taken into account". The role of UNCTAD in this regard is specified in detail in paragraph 91 (i) and (ii), and includes issues such as assisting countries in the process of accession to the WTO, helping them to enhance their understanding of WTO rights and obligations, improving the transparency of their trade regimes, enhancing national capacities in terms of human resources and administrative infrastructures, and helping them to strengthen their capacities in the services sector.

(ii) The United Nations General Assembly, in its resolution 50/95, requested "the United Nations Conference on Trade and Development to monitor, analyse and review the development of trade between economies in transition and developing countries and to recommend appropriate measures for its revival, thus contributing to the strengthening of the multilateral trading system".

(iii) Pursuant to the above mandates, the UNCTAD section of the United Nations Programme Budget for the biennium 1996-1997 includes in its subprogramme 9.3 two non-recurrent publications: (1) on "specific problems of economies in transition in the integration into the international trading system (with particular reference to issues related to paragraph 91 (i) and (ii) of the final document of UNCTAD IX (1997)"; and (2)on "Measures for reviving trade between economies in transition and developing countries".

(iv) Taking into account the fact that both publications require similar economic analysis, the present study - in order to avoid repetition - combines analysis and conclusions on both issues.

(v) Since the process of transition of most Central and Eastern European countries (other than CIS countries) has been analysed in detail in other UNCTAD publications, for example in the report of the UNCTAD secretariat on *Trade Policies, Structural Adjustment and Economic Reform: Increased Participation in international Trade in Goods and Services by developing countries and economies in Transition: Some Problems and Opportunities* (TD/B/40(2)/7), and various issues of the annual *Trade and Development Report* (TDR), and since these countries are already quite advanced in their integration into the international trading system (some of them, in fact, consider that they have concluded the transition process), the present study is based mainly on an analysis of CIS countries. Other economies in transition are mentioned only in the Introduction for comparison and for the general overview of developments.

(vi) The full integration of the countries currently known as "economies in transition" into the international trading system is an integral part of their passage to a market economy. The process is complex, involving profound juridical, economic and policy changes. In one or another way, all economies in transition had, or still have, to go through this form of adaptation. In spite of certain similarities in the approaches and methods applied, each country's transition process is unique, because of the (sometimes immense) differences from country to country and the wide divergence in their starting positions and capacities. Before the transition process began, some of them did not exist as sovereign States. They had little, if any, direct business contact with the outside world and practically no knowledge of the rules and mechanisms guiding the international trading system. Others had well-established trade relations of their own with developed market-economy countries and developing countries. Some were members of the General Agreement on Tariffs and Trade (GATT). However, their participation in the international trading system was limited because of political and economic factors.

(vii) Most of these countries' foreign trade, was carried out within the Council for Mutual Economic Assistance (CMEA), which had its own rules and mechanisms. In 1990-1991 the most characteristic of these - central planning and state monopoly on foreign trade - were abandoned virtually overnight. In the autumn of 1990, the CMEA, which was essentially an umbrella organization for bilateral countertrade at intergovernmental level amongst member countries, decided at a meeting of Prime Ministers to switch to convertible currency payments.

(viii) This dramatic change in the basis of economic relations was necessary and even indispensable for transition to a market economy and full integration into the international trading system, but the hasty switch from barter to convertible currency payments was politically motivated, and not prepared from the economic point of view. The mutual economic interdependence of the CMEA countries was very great. They conducted between 50 and 80 per cent of their foreign trade amongst themselves[1] and did not have sufficient convertible currency reserves to make a more or less painless transition from countertrade to convertible currency payments.

(ix) A part of the countertrade among them before 1989-1990 consisted of mutual exchange of low-quality goods and military equipment (or raw materials and components for its production), which merited discontinuation. However, there was also an exchange of energy carriers, raw materials, food, consumer goods, machinery and equipment of vital importance to the economies of all of them. In the light of this mutual interdependence, it seems that it would have been necessary to look for a (perhaps temporary) transformation of the CMEA or for another form of a "civilized divorce". In practice, however, there was no common analysis of the situation, no mutually agreed transition period and no collective measures to prevent trade distortion. Under these circumstances it was only natural that the CMEA countries' mutual trade collapsed, striking an immediate and heavy blow to their economies.

(x) Another blow which affected all of them, although differing in terms of time and magnitude, was the transition process itself. Some countries were better prepared than others from the point of view both of the population's readiness to accept radical changes and of the Governments' capacity to choose and implement the appropriate measures. Geographical, political, historical and other factors also played an important role. The fact is that the economies of all the countries in transition reacted to the two just mentioned blows with an unprecedented drop in output. As a general rule, the decline began in those countries which first introduced active transition measures (Poland, Hungary and the former Czechoslovakia), and spread progressively to Romania, Bulgaria and further East. There was a substantial reorientation of trade patterns. Developed market-economy countries, mainly those of the European Union (EU), which had traditionally ranked second amongst these countries' trading partners, by 1991-1992 had already become the main trading partners of the CEEC countries and the Russian Federation.

(xi) From 1989 to 1996, the European Union more than doubled its trade with the six Central and Eastern European countries (CEEC) (Bulgaria, Czech Republic, Hungary, Poland, Romania and Slovakia). For these countries trade with developed market-economy countries (DMC) became, together with reviving internal demand, a major driving force behind their economic recovery, which for at least one of them (Poland) began in 1993, while for others it began somewhat later or is still awaited.

(xii) As far as the newly independent States of the former Soviet Union (FSU) are concerned, in addition to the two shocks described above, they had to cope with a third shock - the dissolution of their former common economic space within the FSU. Hit by this triple economic trauma, the economies of the countries of the FSU reacted with an even greater decline in comparison with other CEECT. In 1996 the gross domestic product (GDP) of most of them fell to about 40-35 per cent of the 1990 level. The situation seems now, however, to be bottoming out. The economic decline in many of these countries has come to a halt, and some achieved positive GDP growth rates in 1996 and in the first half 1997. In others, however, the economic downturn is expected to continue in 1998, although at lower rates.

(xiii) A report by the UNCTAD secretariat in February 1994, analysing the achievements in the introduction of economies in transition into the international trading system, concluded that: "With regard to the external sector, the main progress achieved thus far includes a substantial opening of foreign trade and investment, profound changes in monetary and foreign exchange management and control and, in particular, the rapid transfer of decision-making on foreign trade, investment and prices from government institutions to fully autonomous enterprises"[2]. That conclusion, however, referred above all to the the CEEC. At that time, most CIS countries were at the beginning of the process, with the Russian Federation (RF) the most advanced amongst them.

(xiv) Now, four years later, most of the CIS countries have made substantial progress. The Russian Federation and many other CIS countries have adopted new foreign trade legislation, introduced new customs laws and regulations, including effective customs tariffs, and adopted laws on competition policy. Decision-making in foreign trade has been decentralized. Measures have been taken to stabilize national currencies and to make them convertible. The financial markets have been opened to private enterprise. As noted, for example, by some of the participants in the most recent Working Party on the Accession of the Russian Federation to the WTO (December 1997), despite some instability and contradictions in the legislation and particularly some omissions in its interpretation and implementation by the subjects of the Federation and its organs, the progress achieved by the RF in the transformation of its foreign trade sector is remarkable. As a general rule, the most advanced in this direction are those countries which have been more active in their efforts to join the WTO. From this point of view, the process of the CIS countries' accession to the WTO is of major importance for their integration into the international trading system. Furthermore, WTO membership could help to eliminate the restrictions still existing in intra-CIS trade and lead to stabilization and unification of national trade legislation within the framework of the generally accepted WTO rules. Also, the WTO dispute settlement mechanism could be of direct or indirect use in removing misunderstandings and avoiding conflicts.

(xv) The aim of this study is to analyse from various aspects, and on the basis of case studies, the process of CIS countries' full integration into world trade and into the international trading system, as well as to evaluate, as far as possible, its impact on trade with developing countries.

PART 1
TRADE IN GOODS AND SERVICES

CHAPTER I. Trade in goods

A. Separation from the FSU economic space: The case of the Russian Federation

1. In December 1991, when the independence of the Russian Federation was declared, the disruption caused to the economy of the whole FSU by the dissolution of the CMEA was still recent and painful. A political divorce from the FSU republics had taken place, but economically it was not yet final. The economic mechanisms and the unified economic space of the FSU had been damaged, but they still existed. Output declined dramatically. Transition to a market economy had yet to begin. And last but not least, the FSU had left a substantial foreign debt which had to be serviced.

2. The above are only some of the major problems which had to be faced by the new Russian Government on the path to the country's full integration into the world economy and the international trading system. The pragmatic approach to the solution and management of these problems in the economic and political environment dictated policies and actions which had, and still have, a direct impact on the trading patterns of the Russian Federation and the other newly independent States (NIS).

3. A major decision to be taken related to the external debt. It was imperative to secure uninterrupted debt servicing. The lessons of history showed that a unilateral moratorium or refusal of debts would lead to the international isolation of the major successor to the FSU - the Russian Federation. This was totally unacceptable to the Government in the 1990s, unlike in 1917. Debt rescheduling was possible, but responsibilities had to be assumed. In 1992, after negotiations with the other NIS, the RF formally took over all debts and credits of the FSU. A debt rescheduling agreement with creditors was reached which softened the "snowball effect" of growing interest payments, but a heavy burden of debt servicing in convertible currencies remained.

> **The foreign debt** of the FSU is estimated to have been somewhat above $60 billion in 1990. At the same time, according to Russian sources, the overall debt of developing countries to the FSU was 79.2 billion curreny roubles. Converted into United States dollars at the official exchange rate of R 0.58 to $1, this would total about $132 billion. This on paper is much more than the whole FSU debt. However, effective repayments, most of which were practically not transferable into convertible currencies, were far from able to cover the necessary convertible currency amounts for the servicing of the FSU's own foreign debt. In 1990 one-third of the value of the convertible currency exports of the Soviet Union had to be spent on debt servicing.[3]

4. Debt servicing is one of the reasons for the Russian Government and the Russian Central Bank to stimulate, by all means, exports for hard currency. Other reasons include the constant need to import food, medicines, modern machinery and equipment, to serve the passive in services, and to create foreign currency reserves. The elimination of the state monopoly of foreign trade and the liberalization of import and export regimes also played an important role in the resolute shift of Russia's foreign trade operators in the direction of extra-CIS markets.

5. In 1992, a temporary trade regime with other CIS countries was established, based on intergovernmental countertrade agreements and protocols with lists of fixed quantities for a mutually agreed exchange of goods. The

balance was calculated in internal FSU prices. According to the Russian State Committee on Economic Cooperation, which is in charge of intra-CIS trade relations, these prices represented about 0.6 to 0.7 per cent of world prices for comparable goods.[5] It is obvious that an exchange mechanism based on such prices cannot last among independent States in which central planning and state trading no longer exist. Furthermore, like the RF, the other NIS had their own reasons for wanting convertible currencies in return for their products, and they also stimulated extra-CIS exports by all means. This, together with a background of sharply declining production, made it impossible for them to implement in full their part of the intergovernmental obligations in the exchange of goods with the Russian Federation. In 1992 the RF honoured about 69 per cent of its export obligations, but received in return only 20.3 per cent of the goods promised. The liabilities of the CIS countries as regards the RF were de facto transformed into state loans. Furthermore, since at that time real borders among the NIS did not exist, it was practically impossible to control non-authorized exports and re-exports.

6. Finally, the Russian rouble was still in use in the region's internal and intra-State trade, which obliged the RF to print roubles to pay for the imports from Russia of other States in the rouble zone. Proposals to create an economic union in order to prevent the further disintegration of the common economic space were associated with losses of sovereignty, and were therefore not acceptable to most of the other NIS.

7. In 1993, the RF introduced a new rouble, putting a final end to the already splintering rouble zone. A law was passed making any technical loans in support of intra-CIS trade subject to authorization by the Parliament, and the Government decided to substantially reduce the nomenclature of goods and the volume of deliveries set out in the lists annexed to the intergovernmental agreements on trade and economic cooperation amongst CIS countries. Prices in intra-CIS trade rose sharply, particularly for energy products. Measured in dollar terms, the average prices for oil and natural gas in CIS countries increased by about 150 and 300 per cent respectively, reaching largely the average export price charged by Russia in extra-CIS trade. (However, according to the International Monetary Fund, in 1993 these prices were still only about 56 per cent of the world price for petroleum and oil products and 49 per cent of the world price for natural gas.)[6]

8. In introducing the above measures, the Russian Government:

(i) gained control over the national currency - the rouble - which was a *sine qua non* for the stabilization of the economy;

(ii) halted to a large extent the uncontrolled outflow of national resources;

(iii) improved the RF's terms of trade in intra-CIS trade in 1993 by almost 20 per cent;[7]

(iv) strengthened the country's export capacity in relation to convertible currency trade areas outside the FSU.

9. From this point of view, the measures brought about important positive results for the RF, but they had some negative side effects as well:

1. The measures contributed to aggravating the already existing serious difficulties of the non-oil-producing European and Trans-Caucasian NIS in balancing their energy consumption. Rising energy prices and shortages of energy and raw materials supplies had a strong impact on the production capacity and the costs of final production in these countries, which contributed to the deepening of their economic crises, led to a further decline in their industrial and agricultural production, and reduced their export capacities. This in turn further reduced their ability to pay the bills for energy and other imports from Russia and other energy-exporting CIS countries;

2. Analysis of the foreign trade flows of the Russian Federation before the break-up of the FSU would show that the NIS were its main trading

partners during the Soviet period. The share of CIS and Baltic States in the RF's trade in 1991 was about 74 per cent for exports and 58 per cent for imports. At the same time, for the other 14 smaller NIS, including Ukraine, these shares in imports and exports varied between 79 and 99 per cent[8]. The deepening of the severe economic crisis in partner countries with such a mutual interdependence had a boomerang effect on the economies of all of them, including the RF. Russian industry was integrated with the industries of all the other FSU republics and depended on deliveries of intermediary products, equipment, spare parts etc., as well as on their markets. Russia's manufacturing capacity was inward-oriented. The production of final goods was aimed at serving above all the internal Soviet economic space and to a lesser extent the CMEA area, as well as some developing countries. Only a relatively small part of Russian-made final products were able to find consumers outside those countries. Consequently, the worsening of the situation in CIS countries was aggravating the crises in Russia's own industrial sector. According to an estimate by the Russian Ministry of Economics published in 1994, about 30 per cent of the drop in production in the RF was due to the reduction of trade with the other CIS countries[9].

10. Some Russian economists estimate that the loss in production due to the disintegration of the former Soviet economic space was even higher (up to 35 per cent), but it is not clear whether they are taking into account the fact that an important part of the linkages amongst production enterprises within the FSU was artificially created (for example, through low transportation costs and central planning), or consisted of exchange amongst enterprises with military production, which in any case would not have survived the transition to a market economy and the end of the Cold War. Nevertheless, there can be no doubt that the dissolution of the Soviet economic space was painful for all NIS. Some temporary bilateral agreements beteen the RF and Azerbaijan, Ukraine, Estonia and other NIS concerning lower delivery prices, temporary exemption from taxes, and so forth, aimed at easing the transition.[10]

11. Briefly, it may be concluded that in 1993 a decisive step was taken in the direction of introducing into inter-NIS trade basic rules and practices which are considered to be "normal" in international trade. However, the price paid has been high.

B. Regional integration

12. In an attempt to avoid the further disintegration of mutual economic links, in September 1993 the heads of State of 12 NIS - Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan - signed the Agreement on the Creation of the Economic Union (CIS Economic Union), aimed at the establishment of a new, market-based framework for trade and enterprise cooperation amongst member countries. In April 1994 the Agreement on the Free Trade Area (FTA) was signed, followed in October of the same year by the Agreement on the Establishment of a Payments Union.

13. The FTA Agreement is a framework agreement, which needed to be supplemented by bilateral agreements in order to become operational. Although up to now not all CIS countries have signed such agreements amongst themselves, a free trade regime (with exemptions) between the Russian Federation and all other CIS countries is in force, while between the RF, Belarus, Kazakhstan and Kyrgyzstan the regime functions without any exemptions[11]. The Agreement on the Establishment of a Payments Union is not yet operational.

14. In January 1995, Belarus, the Russian Federation and Kazakhstan signed a (framework) Agreement on the Creation of a Customs Union. Kyrgyzstan signed in 1996. In that connection, a number of complementary bilateral agreements were signed between the RF, Belarus, Kazakhstan and Kyrgyzstan in 1995-1996, but the customs union is still in an early stage of formation. In January 1994, the Presidents of Kazakhstan, Uzbekistan and Kyrgyzstan signed an agreement on the creation of a single uniform economic space (Central Asian Common Market). An Interstate Council and an Executive Committee of the Interstate Council were set up; however, for the moment, the agreement remains a framework agreement,

like earlier documents on a similar subject.

15. Two levels of integration are in different stages of operation. The first (lower) level - the FTA - is in force to a great extent, while at the second level, which is meant to become a customs union, there are two (partly overlapping) circles: the Russian Federation, Belarus, Kazakhstan and Kyrgyzstan form one circle, and Kazakhstan, Uzbekistan and Kyrgyzstan another. This is certainly temporary. Both customs unions cannot really operate for a long time in a situation of partial overlapping, because a common external customs border cannot be established. It can therefore be expected that Uzbekistan will join the "first circle"; if not, the Central Asian Common Market will not become a reality.

16. As far as the "first circle" is concerned, customs borders amongst its members have been abolished and a common external tariff is in preparation. However, there seem to be problems in the enforcement of a common external border as well as in the formation and execution of common customs and trade policies. Although common institutions have been established, their powers are not supranational and therefore not sufficient to guarantee the necessary synchronization of policies and actions required for the functioning of the customs union. A "third circle" may be in the process of formation between Belarus and the Russian Federation, which signed an agreement on even closer cooperation, but so far this remains a statement of intentions.

17. It is obvious that the integration processes amongst CIS countries have not yet fully crystallized. Although at first glance it seems natural for countries which only a few years ago shared a common economic space to desire the advantages of the free movement of people, goods and capital, there are a number of challenges to be overcome, and economic and political balances to be established, before a real economic union can be created. The biggest problems seem to be the overwhelming economic and political weight of the Russian Federation in the region, and the strong difference in the levels of economic development between the Slav countries and their Central Asian counterparts.

C. Trade flows of the Russian Federation

18. **After the dissolution of the FSU** there was sudden and sharp decline in trade amongst the former Soviet republics. Estimates in table 1 show that in the last two years of the Soviet period (1990-1991) about two-thirds to three-

Table 1. Evolution of intra- and extra-FSU trade of the Russian Federation (1990-1996) as a percentage of all FSU exports and imports

	Exports							Imports						
year	1990	1991	1992	1993	1994	1995	1996	1990	1991	1992	1993	1994	1995	1996
intra	70	74	23	25	22	19	19	47	58	21	26	27	29	31
extra	30	26	77	75	78	81	81	53	42	79	74	73	71	69

Sources: State Customs Committee of the Russian Federation; IMF.

quarters of the RF's exports of goods went to the FSU republics and only one-third to one-quarter went outside the FSU. Since 1992 (the first year after the dissolution of the FSU), the correlation has been reversed, and the decrease in the share of the intra-CIS and Baltic State markets for the RF continues. In imports the change has been less drastic, but the reversal of the correlation is similar. The reorientation of Russia's trade towards other markets continued in the first half of 1997 when the overall trade between CIS countries contracted by another 14 per cent in comparison with the same period of the previous year, while extra-CIS trade (for the first time) also contracted, but only by 2 per cent[12].

19. The above figures, which are based on official CIS sources and data from the World Bank and the IMF, should be used with caution (this applies to all

figures for intra-FSU and intra-NIS trade until 1994). The intra-FSU and intra-CIS trade of the RF was calculated in roubles until 1994, and the rouble was overvalued for statistical purposes until the end of 1991. However, since 1992 the rouble has been undervalued in its effective market exchange rate against convertible currencies. This may explain part of the sudden dramatic change in 1992. Furthermore, these figures do not take into account unofficial import and export by physical persons ("shuttle trade"). The Central Bank of the RF estimates, for example, that in the first half of 1997 alone imports effected through "shuttle trade" were worth $9.5 billion, this trade to a great extent avoiding customs and fiscal control. This means that the real changes in trade flows are less drastic. Nevertheless, the sudden pronounced reorientation towards markets outside the FSU is a fact, and the figures in table 1 are illustrative.

20. The reorientation of trade patterns took place against the background of an overall decline in Russia's foreign trade in 1991-1992. There was a substantial decrease in the extra-FSU trade of the Russian Federation already in the last year of the Soviet period (1991), when in comparison with 1990 exports fell from $81 to $53 billion and imports from $83 to $45 billion. This represents, respectively, a 35 and 46 per cent decline in exports and imports, and is to be attributed mainly to the collapse of intra-CMEA trade. In 1992, there was another 20 per cent fall in the volume of extra-FSU exports, but from 1993, when the drastic intra-FSU trade measures described above were introduced by the Russian Government, extra-FSU exports began to regain their position and in 1996 totalled $84 billion[13], which is higher than in 1990, the last year before the decline. Taking into account the continuing pattern of decline in Russia's output, including oil production, it is obvious that part of this increase is to be attributed to reduced internal consumption and a lower level of exports to other CIS countries. Another part of the increase is due to higher prices for energy and raw materials on the world market in 1994 and 1995, although in 1996 oil and metal prices remained stable, and the 50 per cent increase in natural gas prices was offset by a lower level of purchases.

21. The RF's overall trade balance has been positive since 1991. In 1994 the surplus was $26.9 billion (according to other sources somewhat less); in 1995 it was $30.9 billion and in 1996 $39 billion.[14] This tendency continues, although it is slowing down. According to the United Nations Economic Commission for Europe (ECE), in the first half of 1997 the trade surplus of the RF was $16.3 billion, $1.1 billion less than during the first half of 1996. The reasons for such a strong positive trade balance are above all weak domestic demand and reduction of imports until the end of 1992. Since 1993 imports have been increasing, but at a slower rate than exports. The positive trade balance covers debt servicing and a traditionally strong deficit in services trade, the latter including non-registered imports through "shuttle trade" (according to the ECE, $10.1 billion in the first half of 1997 alone[15].

22. In 1995, 56 per cent of the RF's exports were to, and 48 per cent of its imports were from, Western Europe (mainly the EU). The CIS countries shared second place in Russia's exports to Asia (17 per cent each). In imports the CIS maintains second place, followed by Asia. North America (mainly the United States) occupies third place in both directions. Russia's foreign trade is concentrated on 12 countries: Ukraine, Germany, Italy, United States, Switzerland, Japan, Belarus, United Kingdom, China, Netherlands, Finland and Kazakhstan. In 1994, these countries accounted for three-fifths of its exports and two-thirds of its imports. The share of developed market-economy countries in Russia's exports is growing and reached 67 per cent in 1994. According to the RF's national statistical office, in the first half of 1997 energy products accounted for 51 per cent of the country's overall exports and base metals accounted for 24 per cent. Machinery and equipment represented only 5.3 per cent of exports in 1995 (6.3 per cent in 1993).

23. **Export potential**: Petroleum, natural gas, ferrous and non-ferrous metals (including gold), chemical products, diamonds and wood were the backbone of Russia's exports in the Soviet period, although Russia was also a major exporter of machinery and equipment. According to some estimates,[16] in the beginning of the second half of the 1980s machine building and engineering products, including military equipment, represented about one-third of USSR (mainly Russian extra-FSU) exports. Furthermore, according to the same source,

production classified as "machine building and engineering goods" accounted for about 70 per cent of Russia's exports to, and about half of its imports from the other FSU republics in 1989-1990, most of it (about two-fifths) on the basis of enterprise cooperation.[17] CMEA and some developing countries were also important consumers of such products, although to a much lesser extent. Under these circumstances, the reduction of Russia's overall exports (including intra-CIS) of machinery and equipment in 1995 to a mere 5.3 per cent, with a tendency towards further decline, testifies to a progressive deterioration of the commodity structure of its exports.

24. It can be expected that in the short and medium term, and perhaps even in the longer term, Russia's traditional exports mentioned above will remain the main export earners. It seems, however, that at least as far as the next few years are concerned, the country has reached just about the upper limits of its capacity to export to DMC markets. Production of most of these items is falling (petroleum and gold), or growing only slowly (base metals and diamonds), internal consumption has little room for further contraction, and the recent decision by the Organization of Petroleum Exporting Countries (OPEC) to increase its members' output and export quotas indicates that higher oil prices are not to be expected in the short run. In several years' time, with foreign participation, Russian exports of natural gas and oil could expand again if existing projects for the construction of new pipelines, including for transit from the Central Asian CIS countries and Azerbaijan, are implemented.

25. For Western markets and the markets of the fast-growing developing countries the quality of Russian consumer goods, machinery and equipment products is inadequat, and demand is low in CIS and developing countries. Foreign direct investment could improve the quality and provide the necessary logistics for the sale of those products, but such investment in Russia was relatively low until 1995-1996, in comparison with CEFTA countries. However, in the first half of 1997 FDI increased considerably and reached $8.2 billion (compared with $5.6 billion for the whole of 1996),[18] which is a sign of growing confidence in the Russian economy. Another good sign is the recent adoption (on 20 January 1996) of a government decree introducing a new system for stimulating the export of goods and services, which creates a basis for export crediting, export guaranty and export insurance.[19] Membership of the WTO could therefore be regarded as an indispensable step towards better access for Russian products to Western markets.

26. **High-tech exports**: The Russian Federation has a relatively well developed internal capacity in the fields of commercial space programmes, civil and military aviation, laser techniques and other high-technology products. Western markets are progressively opening up for such products from Russia, although some restrictions are still maintained.

27. Like the whole of Russian industry, the high-tech branches just mentioned are currently experiencing a severe crisis. Insufficient investments, a lack of state support and a "brain drain" are only some of the challenges. Nevertheless, those branches' material and intellectual basis are more or less still intact and can be preserved and developed.

28. The markets for these products are highly sensitive to influence by government positions. Maintenance of stability and predictability in the foreign and internal policies of the RF may therefore play an important role in the preservation and opening of the world markets for Russian products in this area. Foreign investment may make up for the lack of investment resources in cases where national security considerations permit it.

29. The Russian civil aviation industry can rely on traditional markets in CEEC and developing countries. According to a publication of the Russian foreign trade organization Aviaexport, about 3,000 aeroplanes and 4,500 helicopters have been exported to 60 countries since 1961. Some 1,300 Soviet-built aeroplanes in CEEC and developing countries are expected to be due for replacement, which alone represent a potential market of $52 billion.[20] Observers believe that the new Russian airliners Tu-204, AN 124, IL 114 and others would be at a level similar to that of Western (European and United States) airliners, if they had Western engines, electronics and cabin design.

In addition, they are reported to be much cheaper. Several multi-billion dollar projects for cooperation with Western firms and financial groupings are under discussion. The Russian civil aviation production factories are closely linked with enterprises in Ukraine, Belarus and Uzbekistan, which means that the expansion of Russia's extra-CIS trade in this area could also stimulate intra-CIS trade. However, the Russian civil aviation industry is still in crisis and its survival depends above all on capital investments.

30. Russia's laser industry, which is already over 50 per cent privatized, exported in 1994 fluid crystal and laser technology worth $9.22 billion. The main custumers are China and CIS countries. The quality of Russian laser instruments is considered to be comparable to that of Western equivalents, and prices, despite a recent increase, remain about 50 per cent less; demand in the West, however, remains weak to mediocre.[21]

D. The case of the Central Asian NIS

31. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are landlocked in the central part of the immense Asian continent. Until 1991 between 79 and 99 per cent of their exports and imports were within the former Soviet Union.[22] Direct business contacts with the outside world were rare. Of the newly independent States of the FSU, these five had least experience of foreign trade operations at the time of their independence, not mention trade policies and trade promotion practices. However, these countries have a relatively large foreign trade potential. They are estimated to have delivered to the other FSU republics in 1991 goods worth $53.6 billion[23].

32. This potential was formed during the Soviet period and consisted mainly of raw petroleum and petroleum products, natural gas, fertilizers, ferrous and non-ferrous metals, cotton and textiles, wheat, tobacco, wine, fruit and vegetables, livestock and live animals, other mineral commodities, and intermediary and agricultural products. Machine building and light industry goods also had a certain role to play in the export potential of some of them. However, most of the manufactured goods in inter-republic trade were intermediary or semi-manufactured products.

33. During the Soviet period a major component of export-oriented industrialization of the Central Asian republics was the preliminary processing of local raw materials. Chemical plants were built near oilfields or natural gas; textile factories in cotton-producing regions; food-processing capacities in agricultural areas; ferrous and non-ferrous metal plants near mines; and so forth. There are, however, also some cases of export-oriented final industrial production in the Central Asian countries in cooperation with enterprises throughout the FSU. For example, cotton harvesting and textile machinery, tractors, excavators and aeroplanes[24] were among final products manufactured in Uzbekistan, and tractors and other agricultural machinery, excavators, and equipment for the construction and mining industries were manufactured in Kazakhstan and other countries in the region[25].

34. Artificially low transportation costs within the territory of the former Soviet Union were initially profitable for the industrialization of these countries, which are situated far from seaports (except the landlocked Caspian Sea) and any modern land-based international transportation routes outside the FSU. After 1991, however, transportation costs rose quickly to the world level, and often above. This rendered the transportation of bulky and cheap industrial products unprofitable and made many of these countries' export-oriented industrial capacities poor investments. It should also be mentioned that the manufacturing industry in this region was established mainly during the Second World War, when production capacities from the western regions of the Soviet Union were evacuated to Central Asia and remained in place. Many of these capacities are now obsolete.

35. The first years after the break-up of the FSU were therefore characterized by a rapid decline in the output and trade of the Central Asian NIS. At the same time there was a marked reorientation of their trade. Petroleum oil and oil products, metals and other raw materials replaced manufactured and semi-manufactured goods in their exports. Russia and the CIS

are still the main trading partners, but their relative weight is decreasing, and trade with the Islamic Republic of Iran, Iraq, China, Turkey and the EU now accounts for almost 50 per cent of exports and imports.

36. **Petroleum and natural gas** play a particular role in the export potential of the region. Most of the Central Asian CIS countries (as well as the RF and Azerbaijan in the same region) have considerable reserves of petroleum and natural gas. Multinational corporations and foreign governments are vying for concessions and transit routes. The inflow of FDI already plays a major role in the balance of payments of some of them. International consortiums have (competing) plans to build oil and gas pipelines to the Russian Black Sea port of Novorossiisk (via Grozny) and further via Bulgaria and Greece, and/or via Georgia, and even through the Black Sea, to a Turkish port in the Mediterranean Sea, as well as to the Islamic Republic of Iran and to China. Implementation of these projects could substantially strengthen the export potential of the Central Asian CIS countries, the Russian Federation and Azerbaijan, as well as the revenues of transit countries, but it will depend on political stability in the region and will need some time to fully materialize. Furthermore, there is a serious danger that revenues from the oil and gas sectors will suffocate other industrial branches and agriculture. A similar phenomenon has been observed in some developing and developed oil- and natural-gas-exporting countries. An exchange of experiences with such countries could therefore be useful in preventing such developments as early as possible.

37. **Opportunities to revive the non-oil sector:** The Central Asian NIS have comparable advantages and chances to revive the production and export of food and light-industry goods, but in the short and medium term the only potential market for them seems to be the CIS region, which is suffering from surpressed internal demand. Furthermore, subsidized world market prices are creating unfair competition for their agricultural exports in the CIS. The cheap labour available in the region will be of only limited advantage, because of the high degree of mechanization of this sector in competing countries. The solution lies in rationalization and intensification of production. Long-term agreements with partner countries and WTO membership, with some freedom to support agricultural production, is also to be recommended. There is also a need to modernize food production capacities. As far as heavy industry is concerned, there are signs that local production of tubes for pipelines, as well as other heavy equipment for the petroleum and natural gas sectors, is about to be organized. Export of non-ferrous metals will also remain a source of convertible currency for the Central Asian countries.

CHAPTER II. Trade between CIS and developing countries

A. Impact of the transition process in CIS countries on their trade with developing countries

38. At the beginning of the transition process, the trade of all economies in transition with developing countries contracted sharply. According to the UN *Monthly Bulletin of Statistics*, their aggregate imports from developing countries fell from $28 billion in the peak year of 1990 to $14.9 billion (the lowest figure) in 1992,[26] which represents a drop of about 47 per cent. However, when it is taken into account that the former German Democratic Republic was not counted in 1992, the real decline was around 43 per cent. In 1990-1991 the tendency to decline was much stronger in the Central and Eastern European countries than in the Soviet Union. In 1992, however, exports by the NIS of the former USSR (taken together) to developing countries fell by 44 per cent,[27] while on the import side the decline began one or two years later, reflecting shipments against earlier deliveries.

39. The reasons for such a serious decline are multiple, but above all they are the brusque transition to payments in convertible currencies and the dissolution of the CMEA, which led to the collapse of mutual trade with the former CMEA members Cuba, Mongolia and Viet Nam. Somewhat later, trade with India, Egypt, the Syrian Arab Republic, China and other important traditional developing country trading partners of the economies in transition and particularly the FSU was also affected, although not to the same extent as that with the former CMEA members. The UN embargo blocked trade with the remainder of Yugoslavia and Iraq.

40. Destruction of the traditional state trading mechanisms before the new market-based mechanisms could become fully operational, the overall decline in production and the related depressed demand for imported commodities, as well as the large outstanding debt of certain developing countries owed to the Russian Federation, put a brake on the expansion of the latter's trade with developing countries during the first years of the transition process.

41. At the same time there was a shift in the geographical distribution and composition of the trade pattern. Taiwan Province of China, the Republic of Korea, Singapore and the United Arab Emirates succeeded during this period in significantly expanding their exports to Russia and other CIS countries, particularly by exports of consumer electronics and other consumer goods.

42. Since 1992 there has been a relative stabilization of Russia's trade with developing countries at about 20 per cent of its overall trade, both on the export and the import side. As far as other successor countries of the FSU are concerned, the picture is mixed. The Central Asian and Trans-Caucasian CIS countries have established direct trade links with the neighbouring developing countries and (except Tajikistan) have achieved a relatively high level of trade with developing countries as a percentage of their overall trade. However, the percentage of trade of the European countries - Moldova, Belarus and Ukraine - with developing countries remains low.

43. Another phenomenon which has an impact on trade with developing countries is "shuttle trade" (sometimes also called "suitcase trade"). This form of unofficial trade is widely developed between CIS countries and China, Turkey, the United Arab Emirates, the Islamic Republic of Iran and other countries. The exact value of imports into CIS countries through such channels, a large proportion of these goods being simply smuggled, is scarcely measurable, but official estimates put the figure at $10 billion for the first half of 1997, for the Russian Federation alone.[28] Practically all of these imports are consumer goods, such as electronics, textiles, pharmaceutical products and perfumes, produced mainly in developing countries. In the light of this, it seems likely that imports from developing countries are in fact greater than the official statistics can cover.

44. Although the figures quoted above regarding the developments in the trade of CIS countries with developing countries are not fully comparable and not always reliable, it can be concluded that as a result of the transition process the following main changes have taken place:

- In 1991-1992 there was a sharp drop in the overall value of trade between CIS countries and developing countries;

- The drop was more or less consequent upon the decline in production and GDP in CIS countries in the same period;

- Since 1992 the share of developing countries in the foreign trade of the Russian Federation (and the CIS as a whole) has stabilized at the pre-1990 level, despite the continuing decline in the economic performance of most CIS countries, including the RF, up until 1996-1997;

- The share of machinery and equipment in exports by of the RF and other CIS countries to developing countries has diminished, while the share of oil and other raw materials has grown;

- There has been a change in the geographical distribution of Russia's trade with developing countries to the detriment of traditional developing partners (particularly former CMEA members) and in favour of countries with dynamic economic growth, such as Taiwan Province of China, the Republic of Korea, Singapore and others;

- Following the initial sharp fall in 1992-1993, trade between the RF and some of its former major trading partners amongst developing countries, for example India and China, has now entered a phase of accelerated growth.

B. The generalized system of preferences

45. The Russian Federation, Belarus and Kazakhstan are granting tariff preferences for imports of goods, including agricultural products, originating in developing countries and least developed countries. Under the generalized system of preferences (GSP) scheme of the RF, goods originating in least developed countries are exempted from duties altogether, while goods originating in developing countries are subject to import duties equal to 75 per cent of the base most-favoured-nation (MFN) rate. This contrasts with the GSP scheme of the FSU, which provided full coverage, but was not effective. The GSP scheme of the RF has a real and positive impact on imports from developing countries. Unfortunately, since September 1994 a progressive contraction of preferential coverage has been taking place; for example, spirits, liqueurs, petroleum oils and oils obtained from petroleum, pharmaceutical products, some clothes and textiles manufactured with man-made fibres, some motor cars, watches, and electronics have been excluded from GSP treatment by various government resolutions and laws of the RF.[29]

C. Possible ways and means of supporting trade between CIS member States and developing countries

46. As far as measures to support trade between CIS members and developing countries are concerned, it should above all be borne in mind that the Central Asian CIS countries are in fact developing countries themselves, if economic indicators of their level of development are taken into account. Since the dissolution of the FSU their trade with neighbouring developing countries has grown substantially, in both relative and absolute terms. It can be expected that their trade with neighbouring developing countries will continue to grow. The Trans-Caucasian CIS countries are nearing this situation. Georgia and Armenia (with per capita GDP of about $400) have limited natural resources and in order to be able to further develop their foreign trade, including that with neighbouring developing countries, they will have to restore and reconstruct

their industrial potential, which has been distorted and even partially destroyed by more than seven years of armed conflicts and a deep economic crisis. Azerbaijan has oil, but its food, chemical and machine-building industries need reconstruction. Moldova is a low-income country with an estimated GDP of $392 per capita in 1995.[30] It is landlocked in south-east Europe, which obviously is not favourable to trade with a wide range of developing countries. Its natural trading partners are the Russian Federation, Romania, Ukraine, the EU, Belarus and other countries in the region.

47. Russia's foreign trade with developing countries remains quite important, particularly if "shuttle trade" with China, the United Arab Emirates and even Turkey is taken into account (in Turkey, Russian "shuttle merchants" often buy goods produced in the Syrian Arab Republic, the Islamic Republic of Iran, Iraq and other developing countries). The further expansion of trade between developing countries and the Russian Federation, as well as with Ukraine and Belarus and to a certain extent Kazakhstan, will depend on the revival of production and consumption in those countries. All of them, and particularly the Russian Federation, have the potential to export more machinery and equipment, including some high-tech products, to developing countries, which in turn could stimulate imports of products from them.

48. One particular problem in trade between the RF and developing countries is the heavy indebtedness of some developing countries to the Russian Federation, inherited from the FSU.[31] Russian enterprises, mostly private now, can no longer count on vigorous state support for their exports to developing countries. Moreover, the State intends to receive at least part of the loans granted by the former Soviet Union.

49. Trade financing is another problem. Nowadays it is practically impossible to sell investment goods (machinery and equipment) without financing the producer and the final receiver of the goods. In developed countries very sophisticated forms of trade financing and trade facilitation are assisting enterprises' export efforts. The Government of the Russian Federation, in its decision of 20 January 1996 "On further support of the export of locally produced goods and services",[32] created in principle a mechanism for trade financing and trade support, but it will need important financial resources, which are not currently available.

50. A project to establish a regional trade finance institution for economies in transition is currently under discussion in the UN Economic Commission for Europe (ECE). It merits attention, particularly from the point of view of the possible methodological support which such an institution could offer to national trade finance networks.

51. Another possible way to promote revitalization of trade between developing and CIS countries could be the more active involvement of economic operators from developing countries in this process. The Russian Federation and other CIS countries are often importing food, consumer goods, electronics and other products originating in developing countries through intermediaries from developed countries. Direct purchasing might be more profitable for both sides. Establishment of direct business contacts would lead to increases in mutual trade, but requires action by both sides.

52. Some developing countries have considerable financial resources, which could be profitably invested in CIS countries and also stimulate mutual trade. Others have interests in importing particular products. India, for example, was a leading consumer of pulp and paper from the FSU. As with most other production areas, pulp and paper production in Russia is declining because of insufficient investments. Investments from India could stimulate production, secure imports to cover its needs, and earn additional profit. Similar projects with other countries and in other production branches could be developed. In such cases government assistance could be useful.

CHAPTER III. Trade in Services

53. Economic reform in the services sector of CIS countries has proceeded at greatly varying paces; consequently, changes have been profound in some countries, whilst no significant progress has been made in the others. In that respect, difficulties arise in considering the CIS countries as a homogeneous group. The following discussion is based on an analysis of the most notable changes in some of the most advanced CIS countries in terms of the reform process. It is assumed that the problems identified and the policy solutions suggested will be relevant to other CIS countries, once they have begun to further their economic transformation as regards services. No comprehensive statistics are available so far on the services trade; any data provided are likely to suffer from such problems as lack of comparability and, consequently, should be regarded only as illustrative.

54. The former Soviet Union accorded importance to sectors such as air and maritime transport, and tourism, as sources of foreign exchange. The planned economy, however, did not recognize the contribution of services, particularly producer services, to economic growth. In fact, the treatment of services as "unproductive" was typical of the planned economies, and the low priority attached to their development eventually became a hindrance to productivity growth in the other sectors of the economy. Symptomatically, the terminology used in Russian legislation is confusing and lacking in clarity. The term "works" is employed when referring to services and is used along with or instead of the term "services". When the federal legislation concerning trade in services or some of its aspects is adopted, a need might arise to supplement it with additional regulatory provisions in order to determine its scope or coverage as regards services. Under the law on currency regulation and control, current transactions in trade in services are not restricted. However, this is not the case in the instruction of the Central Bank, where real-estate-related services are subject to special permission. On the economic performance side, the share of services in GDP and employment in the CIS countries has remained consistently lower than the corresponding share in the OECD countries, thus indicating the potential for their growth. The share in GDP at factor cost of services industries in CIS countries remained until 1994 at around 80 per cent of the middle- upper-income countries and 67 per cent of OECD countries.

55. The importance of services is revealed not only by their relative shares in the economic indicators, but also in their unmeasured indirect effect on the other sectors. Transformation in the services sector concerns both the structure and scope of services production and trade. Development of the insurance sector is illustrative in this respect. Under the planned economy the whole market was serviced by two state-owned companies. A limited number of insurance services were provided but the demand even for those services was quite low, and to a large extent only obligatory insurance was purchased. In 1993 the first comprehensive law regulating insurance activity was passed in Russia. It introduced the minimum capital requirement for establishment at a relatively low level, which limited the ability of firms to undertake insurance of larger risks. By the end of 1997 a total of 2,500 companies were operating in the insurance market; however, the conditions on which they were able to offer basic packages of insurance, e.g. car insurance, were unaffordable for most consumers. The recent proposal to increase the minimum capital requirement to $1 million is expected to leave only 500 companies operating by the end of 1998. In line with this trend, Ingosstrach increased its own capital from $5 million to $83 million, indicating that the national companies were becoming more aware and were looking for ways to overcome limitations on their operational capacities. Considering the time needed to build national capacities, firms in the insurance services sector have not yet appeared ready to engage actively in the international trade in services.

56. The most notable changes brought about by economic reform in many CIS countries have been in the rapid development of the banking, tourism related, telecommunications and retailing industries, as well as many professional services such as accounting, auditing and advertising. The increase in foreign participation in the economy has led to the establishment of foreign firms in selected service sectors, including banking, legal and auditing

services, with the aim of providing foreign investors with the opportunity to do business with firms with which they are familiar and whose business practices they know. To compete with the foreign service providers, domestic service firms needed to adopt international standards. The transition of the accountancy firms in Russia to the new international standards of accounting was envisaged by the Government to start in 1998 and to be completed over a period of two years, during which at least 3 million of accountants would obtain adequate training and qualifications. Privatization has led to a growth in demand for various business and distribution services. While services are generally subject to relatively extensive government regulation in OECD countries, this was not the case in the CIS economies. A legislative framework was absent in many areas relating to trade in and production of services, or existing rules and regulations were often inappropriate for effectively addressing market-driven developments. As the real-estate market began to develop, traditional (though new in Russia), real-estate-agent services came into being, with more than 700 companies established by 1998. As in many other services sectors, no adequate laws were introduced until 1996. Thereafter, in the course of just two years, more than 17 decrees, bills and supplementary acts were prepared for adoption by the legislature. How effectively this legal base will address relevant aspects of various service activities only practice will show. It is likely that further experimentation in adopting supplementary regulatory acts will be necessary in order to create a sound regulatory basis for the trade in services.

57. An improved of the services infrastructure is a necessary condition for attracting foreign investment in the economy at large. The growing competition in the goods market on the import side and the decline in the industrial output of the CIS economies has created a more favourable environment for attracting entrepreneurial talent to the services sector. In Armenia, output in the services economy grew by 15 per cent in January-September 1997 compared with the same period in 1996, while industrial output declined by 2 per cent. The start-up costs in the services industry tend to be lower than those in industry or agriculture. This became an important factor in view of the underdeveloped capital markets in the CIS countries, with at the same time potential market niches in the services sector increasing.

58. Proprietorship has developed in the services industry, amounting to 58 per cent of total non-government-sector output at present in Russia. Demand rapidly increased for knowledge-intensive services which drew upon the well-qualified and highly skilled elements in the labour force, which in turn were ready to take advantage of the new market opportunities, while many previously subsidized state enterprises were becoming economically unviable. New services firms and enterprises were emerging an unstable overall economic environment, including inefficient factor markets and volatile product market prices.

59. In many countries the trade in services regime went from being completely closed to extremely open in a relatively short time without adequate and coherent regulations being prepared. The maritime services sector used to be one of the most profitable in Russia, earning $2 billion a year. With the liberalization of foreign trade, deterioration of the state support system and introduction of a 90 per cent profit tax, providers of these services became internationally uncompetitive. Furthermore, the legislative base was not adapted to the new situation, and the law of 1968 was still in force. As a result, nearly half of the fleet registered in other countries. Lack of investment meant that the remaining ships were growing old and ran the risk of being refused access to foreign ports.

A. Main problems in the services market

60. The structure of the services market of the more advanced CIS countries has been changing, including the type, quality and quantity of services provided to consumers and producers. Reorientation of the economy towards the market has created demand for the new types of services, such as banking and insurance, and business services, including real estate, marketing and management. On the consumer side, change in income distribution and the rise in household income for certain segments of the population have increased demand for a variety of services, mainly tourism-related services, privately

supplied medical and educational services, and telecommunication services. However, demand has decreased for some basic consumer services, mostly social services, with the reduction in the income of lower-income households. Privatization gave rise to a growth in demand for producer services which created additional pressure on the market for distribution, business, financial and telecommunication services. The change in the characteristics of domestic consumer and producer demand, together with trade liberalization or opening of the economy, has not only created new opportunities for domestic producers but also served as an important factor in attracting services supplied by foreign services providers. Since institutions appropriate to the market economy were only just being created, foreign entrants into the services industries hardly faced any market access restrictions while internal competition was weak. The main effective barriers to entry were and still are risk and uncertainty associated with market transformation as well as administrative costs.

Table 2. Foreign-owened and joint ownership firms in the services sector, Russian Federation, 1996

	Number	Export million US$	Import million US$
Total in the economy	16079	5704	5079
Construction	1182	74	71
Transport and communication	675	332	108
Retail and restaurants	6983	1137	2508
Wholesale and distribtion services	294	7	31
Business services*	957	146	84

Source: Russia in Numbers, (official publication of the States Statistics Committee of the Russian Federation), Moscow, 1997 (in Russian).

* Includes adversiting, marketing, real estate agencies, audit firms, etc.

61. Growth in domestic demand for real estate, education and medical services was greater; the relevant statistics, however, should be treated with caution. In the overall services structure in the Russian Federation as of the first quarter of 1997 their shares were respectively 21.7 per cent, 3.7 per cent and 3 per cent. With demand for real estate remaining strong, their shares in total household expenditures could still be expected to grow as a result of the rise in pre-reform depressed prices, and the decline or expected decline of subsidization in the housing market. In Belarus and Russia spending on rent and utilities accounts for only 4.4 per cent and 5 per cent respectively of household expenditures, compared with 19 per cent in 23 OECD countries recently surveyed. The annual cost of Russia's subsidies for housing and related municipal services has reached 4 per cent of GDP. Medical and education services used to be provided exclusively by the Government. Income differentiation, however, has created demand for privately provided medical and educational services, which is expected to grow with the overall growth in household income in the CIS economies. A majority of the higher- income-group households in the Russian Federation prefer privately supplied medical services and also primary and secondary education services - 55 per cent and 62 per cent respectively. On the other hand, the decline in demand for public transport services or social services could be due to income growth and new consumption patterns.

62. Lack of start-up capital seemed to slow down further growth in the services market. Foreign investment tended to go to the energy-related sectors, with a spill over into related services. In 1995 half of foreign investment in Russia went to the energy sector, which accounts for less than 6 per cent of employment. In addition, procurement of consultancy services has been evolving, as in the case of development of the power plant in Kamchatka. At the same time, capital outflow from Russia in 1996 amounted to about $12 billion, with a total of $40 to $50 billion of capital held by Russian individuals and firms abroad.

Table 3. Distribution of foreign investment by sectors, Russian federation, 1996

	US$ million	Share in total (%)
Investment, total	6506.1	100
- industry	2167.5	33.3
- transport and communication	257.9	4.0
- retail trade and restaurants	302.8	4.7
- business services	1537.4	23.6
- financial servies	1925.3	29.6
- other	315.2	4.8

Source: Russia in Numbers, (official publication of the States Statistics Committee of the Russian Federation), Moscow, 1997 (in Russian).

63. The impact of new technologies on the competitiveness of services traders has been coupled with the impact of market factors in certain instances, making the adjustment process more costly. The reason for that may be the need to invest in the information technology available only abroad, difficulty in terms of the required minimum knowledge associated with its introduction and operation, or the need to maintain increasing investment in upgrading skills and information technology.

64. Conventional wisdom suggests that competitive conditions in the absence of monopoly, promoting innovation and flexibility, as well as orientation towards end-users would contribute to firms' survival. However, monopoly power dominated previous CIS economic structures and remains an important factor in certain sectors or localities owing to the type of production processes, lack of infrastructure development, and other factors, including institutional ones. Opening up market access for the establishment of foreign services providers has not necessarily changed market structures. Exclusive rights as an international traffic operator were granted in Uzbekistan to the telecom joint venture involving the Government, the German company Siemens and the Italian company Stet International for a period of nine years. Monopolies were particularly typical in services sectors and in the privatization process their power has not always been challenged; thus, there has often been a change in the type of ownership but not in the exclusive position. In the banking sector, the rapid development of domestic banks has encouraged them in building alliances to improve their competitive positions internationally and to increase their profit margins in conditions of economic uncertainty. Depending on the sector, the survival of firms during the transition period in the face of international competition could increase if they had fewer domestic competitors.[33] Domestic market structure could be an important factor in building up and achieving export capacity.

65. The most important objective is to create an effective system of prices in the product and services markets so as to achieve an efficient allocation of resources. However, monopoly power could impede the process, and limitations on factor movement could reduce flexibility in adjustment to the market. The development of the so-called social safety nets is vital for the success of economic reform. On the labour side, the availability of housing is the main reason for the lack of labour mobility in most CIS countries. On the capital side, underdeveloped infrastructure, including in banking and telecommunications, is leading to regionally concentrated investments. Nearly three-quarters of foreign investment has gone to the central economic region, where Moscow is located. With the changing role of the State in the services market, consideration should be given to what level of government should assume regulatory functions, if needed, since the degree of decentralization will differ among CIS countries and also depend on the type of service.

B. Policy issues in trade in services

66. According to 1995 statistical data, the Russian Federation was a net importer of commercial services[34]. Furthermore, the total value of its imports of commercial services is nearly twice that of its exports. In addition, the import growth rate is increasingly and significantly exceeding the export growth rate. With other conditions remaining unchanged, this disparity would lead to an increasing gap between the export and import of services. Efficiency considerations could well support these dynamics; however, the situation should be viewed in the light of the overall trade and domestic policy in order to avoid any negative implications for the balance of payments and long-term economic growth.

67. Maritime services are particularly important for Russia and Ukraine; thus, further development of the export of these services would be fully consistent with the accumulated expertise in this area. The number of passengers and the amount of freight carried internationally by Russian airlines are well below their potential. As will be discussed in the following chapter, in the process of their accession to the WTO the countries in transition will be required to negotiate a list of commitments on trade in services. This will be particularly difficult in a situation where many are at an experimental stage with respect to regulating the various services sectors and where their comparative advantages have not yet become apparent. Careful policy decisions should be pursued, taking into account the need to identify potential trade partners and probable issues to be taken up in the bilateral negotiations on market access and national treatment, with possible implications for multilateral negotiations.

68. Construction services are in great demand in all the CIS economies, and Russia is among the leading world net importers of them. Typically, countries that have a well-developed construction services market are both major importers and exporters of these services. This in a sense could be attributed to the supply and demand of specialized skills, which in the case of Russia are related to the export of services through the development and implementation of major industrial projects abroad, and the import of construction services for the development of the housing market. Governments willing to support the building of domestic export potential in this area should aim at an export strategy backed by the necessary investment, while maintaining competition, including with foreign operators. In Russia, there has been a significant increase in the establishment of foreign construction services firms as a result of the non-discriminatory licensing adopted in domestic regulation. The supply of services through the movement of natural persons has been developing as well, based on the system of authorizations issued to prospective employers, and within the regionally allocated quota, 60 per cent of which was filled in 1997 by those working in construction services. Overall, employment has not declined in construction services, while its share has increased from 8 per cent to 12 per cent, probably because of a general fall in industrial employment. Foreign firms tend to supply the services for those segments of the market where demand is for higher quality standards, which local firms are not able to deliver. However, the performance of domestic firms has recently improved and they have been more successful in competing for tenders for large projects.

69. Policy development in the area of foreign trade in services requires consideration of both consumer and producer needs. Introducing measures that would discriminate and limit national treatment of foreign services suppliers that are already established and operating effectively in the market might harm consumers and disrupt established networks of producers. The attempt to require that the top management of foreign firms have Russian nationality nearly created chaos and had to be abandoned without delay. Each policy decision, however, is country- and time-specific and has to take into account many possibly conflicting factors.

70. With regard to trade in services, the objective mechanism regulating market access of foreign services suppliers is one of the effective instruments for meeting development needs and promoting of trade. Market access is sector-specific and the establishment a foreign service provider is quite different in professional services from that of a voice telephony service provider. Many

interdependent factors affect the supply of the service and require joint consideration, including a comparison of costs and benefits in promoting domestic services providers and maintaining a certain level of market access controls, and realigning the view of the potential trading partners. Some of the key services sectors, e.g. basic telecommunications, benefit the economy at large in their immediate transformation, and a favourable climate for attracting foreign services providers eventually enhances domestic services providers' capacity building in other services sectors. However, such an approach is successful only as part of the overall development of the economy aimed at achieving accelerated economic growth where other measures internal to the economy are put in place, while service-trade-related measures are implemented to support the overall approach. Identification of the key areas of services for development is of primordial importance, including where export potential could be expected to grow and could contribute most to national income growth. For government it is important to determine the likely champions in the limited investment climate and thus guide policy makers in investment allocation decisions.

C. Selected sectoral issues

71. The most successful services firms in CIS countries have been in the retail, publishing, consulting, financial and energy-related services sectors. Among those engaged in international trade, travel-related services firms have been the top export earners in the majority of CIS countries, followed by transport and business services, including professional services. Other sectors, such as banking, are important in their central function of providing economic infrastructure to the economy at large.

Banking services

The development of the banking sector has been one of the major achievements in economic reform in Russia. The decreasing number of banks is the result of attempts by the Central Bank to achieve improved soundness and increase bank's ability to survive. In 1997 there were 2,295 banks operating, while in 1998 only 1,697 remained. The share of foreign capital in the banking system was 6 per cent in 1997 but declined to 4 per cent in 1998 owing to the growth of national capacities. According to the 1998 data, 145 banks had their representative offices in Russia, 16 were fully foreign-owned, while another 10 had foreign capital participation of more than 50 per cent, and 12 had been pursuing their request to open new subsidiaries.

A different picture emerges as regards Russian banks' opportunities to export services. Opening of a representative office is seen as one of the best ways to maintain business contacts in the country of establishment, to share experience and to have direct access to new banking technologies and products. However, Russian banks were facing major difficulties in securing market access, particularly in the United States banking sector. Only one bank had succeeded in opening its representative office in the United States, while applications by others were pending. In the case of Inkombank, its application to open a representative office has been under the review by the relevant federal and New York State bodies for over two years. More than 30 additional requests for information have been complied with by Inkombank. The amount of information sought appeared to Inkombank to exceed that usually required for establishment of a representative office. The fact that Inkombank had received credit lines from the leading American banks and that the Russian Government was fully supporting its attempts did not help to accelerate the application process. On the other hand, nearly 10 American banks established their representation in the Russian Federation, where three had been supplying their banking services through subsidiaries.

The present law on banks and banking activity contains provisions concerning the introduction of restrictive measures in the event that Russian banks are not granted treatment abroad similar to that granted to foreign banks in Russia. The Central Bank could limit banking operations for banks originating in countries where Russian banks are not receiving reciprocal treatment with regard to market access. However, the procedure is cumbersome and requires consultations between the Central Bank and the Government, and is also limited in scope. With the problems faced by the potential exporters of banking services from Russia, new amendments are very likely to be introduced into the banking legislation, and what constitutes optimal market access in banking sector is likely to be reconsidered.

72. **Financial services:** All major global investment banks have been considering establishing or building up their Russian operations. The financing needs in Russia were as enormous as its expected growth potential, the optimistic view about the latter being supported by the recent improvement in the economic situation. At the outset, the financial sector in general and the banking sector in particular were not suited to supporting radical economic transformation and providing the long-term capital needed for a more efficient allocation of resources. The high cost of capital is still an impediment to securing adequate financing for firms in both the services and the industrial economy. Banks have not yet been able to provide the same number and range of financial services as their foreign counterparts. The liberalization of the financial sector in most CIS countries took place in the absence of an adequate institutional framework and the necessary managerial expertise. One of the major features distinguishing the banking system in Russia from the systems in the developed market economies is the frequency of rule changes. The Central Bank has been issuing new rules almost weekly. As a result, the privatization process has failed to activate the expected supply and demand responsiveness[35]. The financial structure of modern developed economies took centuries to create, and it could not therefore be expected that a similar structure could be fully established in the CIS economies in a period of just a few years[36]. Most CIS banking systems have reached an unstable equilibrium point which is characterized by considerable misallocation and underutilization of resources. This fact should be acknowledged when establishing long- term bilateral, regional and multilateral trade relations. Any long-term commitment in this sector would mean locking in inefficiencies and not taking full advantage of internal growth promotion in this area. The Central Bank of Russia has so far not secured the right to license banks' depositary activities. Moreover, enforcement mechanisms remain relatively underdeveloped. Since regulatory mechanisms for the financial sector are in the experimental stage mentioned above, it is difficult for CIS countries to lock in existing regulations in the WTO accession process. Positive trends in the banking sector of most CIS economies point to the ongoing processes of development, with intense competition which is, however, highly concentrated geographically.

73. The above remarks also apply to the insurance sector, where the market for insurance services is still emerging. However, trading in these services is developing very rapidly and not only through the establishment of joint ventures. Brokerage services are often subcontracted to Western firms since the necessary expertise is in short supply domestically. On the other hand, the export of financial services is hindered by the perception that financial enterprises, mostly banks, are not subject to adequate prudential supervision, and this has resulted in the establishment of CIS banks in Western countries being refused.

74. **Tourism-related services:** Imports of tourism-related services are characterized by a most substantial growth in total value. This leads to constantly increasing employment in the related services, including other services sectors such as transportation and telecommunication services. New sets of laws were introduced or are being introduced in many of the CIS countries, aimed at promoting travel services development without any particular discrimination against foreign services providers. No restrictions were applied to foreign investment or establishment in the tourism sector in the Russian Federation. The Government gave no support to promoting development of the tourism industry, and treated tourism more as a sort of social service than as an economically viable sector. As a result, newly established domestic services providers faced competition from well-established foreign tour operators. In addition, taxes disadvantaged domestic operators, since foreign operators were able to transfer their earnings and avoid paying taxes on them. Foreign companies were supported informally by their respective home countries in facilitating procedures for obtaining tourist visas. The time required by a Russian travel agency to obtain foreign tourist visas was in some cases more than five times that needed by the foreign company originating in the particular country. Often foreign travel agencies would sell their services only during the high season and cease operations in between. This put additional pressures on the labour market and again put the local tourism firms at a disadvantage since they would have to maintain their operations through the low season and operate with lower profit margins. The

establishment of foreign operators in this sector did not bring about the desired effects of developing tourism infrastructure, since their investment did not increase in the hotel business or related businesses. This has raised a number of concerns among domestic services suppliers and policy makers, and has indicated the need to develop national capacity supported by adequate regulation of market access.

75. **Professional services:** Existing human capital in the CIS countries could provide the basis for development of trade in professional services. However, massive training programmes in a number of professional services, including accounting, auditing and tax consulting are required, supported by the establishment of institutions such as associations of professional services providers. This could be achieved as the result of a private sector initiative or could be encouraged by the local or federal government for the purpose of establishing licensing procedures, whereby such associations could aim at exploring professional accreditation opportunities. Through contacts with international bodies, where they exist, and relevant private and public institutions, such associations should aim at adopting practices that are recognized and accepted by the international business and investment community. The establishment of a legal, regulatory and institutional framework, based on oversight by independent bodies where necessary, would be more effective if associations of the private services sector operators would assume an active position and contribute to the design of this framework. In addition, this would serve as a building block in the long-term relationship between different economic actors.

The tourism sector in numbers

According to the latest Goskomstat figures, the number of companies in the tourism sector grew during 1993-1996 from 2,600 to 8,200, and those with foreign capital participation, including fully foreign-owned firms, from 141 to 301. These companies have sold their services to nearly 18 million consumers in Russia. Two-thirds of Russian tourists have bought these services from locally established companies. The total volume of tourism- related services sold to foreigners in Russia was nearly $5 billion in 1996. The share of tourism services in the total value of services imports was 58 per cent in the same year; these services, however, accounted for three- quarters of the services trade deficit.

Next winners?

A major potential for Russia is in the development of various kinds of tourism, including specialized tourism. Moscow in particular has an enormous potential for development of business tourism, as a site for conferences and international symposiums, exhibitions and business meetings. A number of conference centres are properly equipped and meet international standards, including in terms of technical equipment, communication capabilities and qualified personnel.

No winners

Maritime services were traditionally well developed in Russia. However, recent government policies extending equal market access conditions for foreign vessels without offering national lines any means of competing, coupled with bad management and a series of bad credits, have contributed to the near economic collapse of the shipping business. To remain economically viable, national companies were forced to register offshore. No better results were achieved in the area of tourism, where the luxury liner *Anna Karenina* was losing $15,000 a day. Additional investment in shore property, including hotels and food processing, merely added to the financial problems and eventually the ship remained in dock. With the huge sums of money required, this type of tourism service will take longer to develop; however, much depends on how policies change in this area.

Source: Business in Russia, No. 82, October-November 1997.

76. The experience accumulated in the audit services market in Russia underscores the importance of adopting mechanisms to support domestic capacity-building and of not relying solely on the positive effects of trade liberalization to achieve the desired outcomes. Full market access and national treatment have been provided for foreign services and services providers from the outset of economic reform. However, after six years the audit services market has not reached the desired level of development, nor have national capacities significantly improved in this area. Initially, a total of six foreign firms were established and were supplying audit services; by 1998, however, they had merged to form four firms with a dominant position

in the market. No information sharing or transfer of knowledge between foreign and domestic firms has taken place so far. Problems have been caused by the weak legislative basis, since a temporary law of 1993 on audit activities is still in force. Domestic regulators have not established minimum standards, including ethical ones. Since they do not meet international standards, domestic firms have been unable to provide international services to foreign or domestic firms. Foreign audit firms have been advertising their services as those that will guarantee the inflow of foreign investment. In a business culture in which auditing was not previously carried out the success of domestic service providers is further undermined. The need to develop insurance for professional activities became apparent after a few firms went bankrupt shortly after receiving a positive auditor's report. Audit contracts offered by firms registered offshore tend to place additional pressures on the conduct of monetary policy because of the transfer of hard currency, coupled with tax evasion.

D. Some conclusions

77. Development of the trade in services is essential for attracting foreign investment to the economy at large. In none of the CIS countries is services legislation notably protectionist at the present time. To attract foreign investment, measures affecting internal market functioning are more important than those related to the opening of market access. Problems faced by the foreign services suppliers are usually due to cumbersome domestic regulation, such as nontransparent requirements related to obtaining contracts, approvals, licences, registration, and certification, and in complex tax system as well as dealing with administrative constraints.

78. Different services sectors are playing different roles and require differentiated approach to their treatment in foreign trade policy. Immediate market opening in certain sectors may benefit other sectors of the economy, and full liberalization could be pursued there. Other sectors require building of national capacities, supported by domestic and foreign trade policy measures, and a gradual approach to liberalization could be preferred there.

79. More typical in the services sector than in other sectors is the need for further development of the legislative framework. Developing a comprehensive approach to foreign trade policy in services involves making, first, a decision regarding identification of the services sectors' export potential within the overall approach to economic development; and secondly, policy decisions as to what degree of foreign participation would be permitted in selected services sectors.

80. Negotiations in bilateral, regional or multilateral settings are complicated by the fact that services industries are not yet well developed and institutional mechanisms are not in place for a two-way interaction between private sector operators and government negotiators. Furthermore, commitments in the services area, particularly in the context of accession to the WTO (see the chapter on WTO accession), should aim at the highest degree of flexibility in order to allow the internal economic development process to continue. An alternative approach is to limit the negotiations on trade in services to a few selected sectors according to the above-mentioned criteria. A very detailed approach to the discussions and binding commitments on the services trade regime should be preferred to the commitments undertaken under the aggregated service sectors. Distinguishing in detail the types of services and the way in which they will be traded makes it possible to meet more fully the needs of both negotiating parties. A comprehensive approach to the negotiations should be pursued with respect to services trade, i.e. coordination of negotiations on different sectors should be maintained throughout, while in the final stage of negotiations market opening for a number of selected services sectors should be considered jointly. This would make it possible not only to coordinate the negotiations but also, and more importantly, to achieve balanced negotiated results.

P A R T 2

TRADE POLICY ISSUES

CHAPTER I. Accession to the World Trade Organization

81. Integration into the world trade and economic systems was announced by most CIS countries as an integral part of their strategies for developing market economies. In this context, accession to the World Trade Organization (WTO) was considered a prerequisite for such integration. The WTO is perhaps the only major international organization without any CIS countries among its members. In 1993-1997, 10 out of the 12 CIS countries applied for WTO accession (in some cases, this was preceded by the beginning of accession to the GATT 1947, but with the establishment of the WTO in 1995, all accessions were transformed accordingly)[37]

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Countries	Beginning of accession process
Armenia	December 1993*
Azerbaijan	July 1997
Belarus	October 1994*
Georgia	July 1996
Kazakhstan	February 1996
Kyrgyzstan	April 1996
Moldova	December 1993*
Russian Federation	June 1993*
Ukraine	December 1993*
Uzbekistan	December 1994

* GATT accession converted into WTO accession.

82. At the end of 1997, these countries were in different stages of the WTO accession process, but the majority of them still appeared to be in the initial stage of accession negotiations.

83. Two basic factors were largely responsible for these countries' initiation of the WTO accession process. First, it was conceived as an important catalyst for reform of their economic and legal systems. Second, accession to the WTO was viewed as a tool with which to overcome their historical legacy by achieving equal status with WTO members in international trade without residual aspects of special treatment as non-market economies (as will be described below).

84. Accession to the WTO involves a considerably more complex and difficult process than that for accession to the GATT 1947. The WTO Multilateral Trade Agreements (MTAs) embrace more stringent and detailed rules and disciplines covering trade in goods, while the scope of such rules and disciplines has been expanded to cover trade in services, as well as the protection of intellectual property rights. Acceding countries are required to accept all the Multilateral Trade Agreements (only the Plurilateral Agreements are formally optional, but, as described below, their acceptance by the acceding countries is also made a matter for negotiation by major WTO members). These new rules and disciplines intrude further into areas traditionally perceived as being within the scope of domestic policy measures. In addition to bringing their trade regime into conformity with the multilateral disciplines, acceding countries are required to negotiate concessions on reduction and bindings of tariffs, specific commitments on agricultural subsidies, and commitments on trade in various services sectors. The attitude of the major trading countries to acceding countries has become more demanding, thus effectively increasing the "standard

of accession". Some have taken the position that acceding countries should accept a level of obligations higher than that accepted by the original members of the WTO, without any transitional periods.

85. These more stringent accession requirements were largely achieved in the four recent WTO accessions - those of Ecuador (which joined WTO in January 1996), Mongolia (which joined in January 1997), Bulgaria (which joined in December 1996) and Panama (which joined in September 1997) - and will likely be used as precedents for future accessions.

86. At the first WTO Ministerial Conference in Singapore (9-13 December 1996) WTO accession problems did not appear to be among the priority issues. The Singapore Ministerial Declaration (paragraph 8) states: "It is important that the 28 applicants now negotiating accession contribute to completing the accession process by accepting the WTO rules and by offering meaningful market access commitments. We will work to bring these applicants expeditiously into the WTO system"[38].

A. Main problems

87. All acceding countries are faced with important economic and institutional challenges, but the situation of the CIS countries is probably the most difficult. Their economic, political and social systems are undergoing unprecedented transformation and most of them (with the exception of Russia) have practically no history of independent statehood, including a trade policy of their own. In addition, their reforms aimed at creating a market economy have so far produced inconclusive results in terms of economic growth, structural adjustment and the respective policies. In many instances of direct relevance to the WTO Agreements, national interests and supporting policies have yet to be defined.

88. Under these circumstances, it is very difficult, if not impossible, to define reasonably, for example, the specific parameters and scope of their WTO concessions on market access in goods and services. However, all these countries are faced with pressing requests from major WTO members that they substantially reduce tariff rates and bind all tariff lines, both industrial and agricultural, thus improving market access at "commercially viable levels".

89. On the other hand, the reforms have resulted in important systemic changes for achieving compatibility with the WTO rules and disciplines. Thus, customs tariffs are now performing the role of main regulator of imports, as required by the GATT 1994, while there are practically no quantitative restrictions placed on imports and exports. The remaining problem in tariffs is to achieve predictability and stability of duties applied. So far, acceding countries have had difficulties in identifying optimal levels of tariff duties since structural adjustment reforms have been slow both in industrial sectors and in agriculture. In addition, customs duties have become a major source of government revenue and are heavily relied upon in budgetary policies.

90. Another difficulty relates to predictability and enforcement of the trade-related legislation in these countries, and to ensuring at the same time that the new legislation enacted is consistent with the WTO rules and disciplines. This is particularly relevant to services and intellectual property protection, where there are still large gaps in the regulations, as well as to subsidies, standards and sanitary/phytosanitary measures.

91. To a certain extent, the specific problems of the countries in transition were recognized during the Uruguay Round negotiations. Three of the WTO Agreements embody provisions to take specific account of the special situation of economies in transition. Thus, Article 29 of the Agreement on Subsidies and Countervailing Measures contains positive and flexible provisions for signatories "in the process of transformation from a centrally-planned into a market, free enterprise economy" to apply programmes and measures necessary for such a transformation during a seven-year transitional period (including prohibitive types of subsidies). In addition, Article 65:3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) provides that economies in transition, like developing countries, may benefit from a five-year period of delay in the implementation of the Agreement, with certain exceptions. However, this article refers only to WTO members, not to acceding

countries. Furthermore, the above transitional periods are calculated from the entry into force of these Agreements. In practice, however, as may be illustrated by Bulgaria's terms of accession, these transitional periods are either not granted at all (as in the case of TRIPS) or are of a more limited scope (as in the case of industrial subsidies).

92. In the General Agreement on Trade in Services (GATS), Article XII on restrictions to safeguard the balance of payments recognizes that a member in the process of economic development or economic transition may require the use of restrictions to ensure, *inter alia*, maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition. This provision is meant to be a "permanent right" of a WTO member, similar to the provisions of Articles XII and XVIII of the GATT 1994 regarding trade in goods.

93. With respect to the WTO's institutional rules and requirements, CIS countries are also experiencing major problems in complying with the so-called transparency obligations under the WTO Agreements (e.g. notification requirements) since their statistical and information systems are not sufficiently developed, although there have been noticeable improvements in this area. The most important difficulties stem from the fact that statistics are not adapted to the requirements set by the WTO members. For example, the CIS countries do not collect specific statistics showing privatized enterprises' share in exports or imports as compared with state-owned entities.

94. Another matter of concern for them is in the new areas within the WTO's sphere of competence, i.e. trade in services and protection of intellectual property rights, where, in general, many essential aspects of the foreign trade regime, legislation and regulations are still lacking, while national policies and interests in those areas are in the process of identification. However, during the WTO accession process these countries are faced with a request for very broad initial and "commercially meaningful" commitments to market access and national treatment for foreign services providers in key sectors of interest to WTO members, including value-added telecommunications and a wide range of financial services (including insurance), as well as in accounting, management consulting, construction, engineering, wholesale distribution, and hotel services and tourism. They are also requested to implement the Agreement on TRIPs immediately upon accession, although it is clear that developing and enforcing new legislation on intellectual property protection will require time and considerable resources.

95. **Status of CIS economies:** The acceding countries in transition are required to resolve two major problems to achieve balanced terms for WTO membership that will enable them to become full participants in the multilateral trading system.

96. First, they have to convince WTO members that their trade regimes and economic systems are compatible with WTO obligations, while some aspects of their trade policies and instruments, if any, would be gradually brought into line with the WTO Agreements. In other words, they should be able to persuade their negotiating partners that they would not need any "non-standard" terms of accession which would distinguish them from "normal" WTO members and emphasize their "systemic" inconsistencies with the multilateral rules and obligations, as was the case with some Eastern European countries (Poland, Romania and Hungary) when they negotiated accession to the GATT in the 1960s and 1970s.[39]

97. Second, they need to achieve balanced market access concessions in goods and services that would enable them to protect priority sectors in accordance with the WTO rules and develop the competitiveness of these and "infant" production and services sectors, while, on the other hand, undertaking trade liberalization commitments and domestic market openings satisfactory to their trading partners in the WTO.

98. In addition, in accession negotiations these countries should aim to settle the "residual" elements of trade regimes in major developed countries which still discriminate against them, including through denial by a major trading country (the United States) of unconditional most-favoured-nation treatment, which is the cornerstone of the WTO[40]. The latter issue, if not resolved by the time of accession, would mean that this major trading country

would have to invoke a WTO non-application provision (Article XIII of the WTO Agreement) with respect to a new WTO member, as happened during Mongolia's accession to the WTO in 1996.

99. In recent years, major developed countries have taken measures to open their markets to the countries in transition which are not WTO members, in particular by eliminating or liberalizing quantitative import restrictions in the European Union. Many of these economies in transition are receiving GSP treatment from major developed countries.

100. However, in spite of the progress achieved, the economies in transition still face a number of systemic measures applied or targeted against their exports, including quantitative restrictions in major markets for agricultural products, textiles, clothing and other industrial exports. Furthermore, other residual elements of trade regimes previously applied to imports from these countries are still in force and remain an important obstacle to their integration into the international trading system; these include selective (bilateral) safeguard clauses and special criteria and rules for the imposition of anti-dumping measures.

101. **Selective (bilateral) safeguard clauses:** These clauses provide for emergency safeguard action to prevent injury to domestic producers, to be applied only against imports from a specific "non-market-economy" country and not all other suppliers, as required by Article XIX of the GATT 1994. In addition, these clauses contain criteria for weaker action of that kind than the measures required by Article XIX of the GATT 1994 and applied with respect to market-economy countries. In this context, the WTO Agreement on Safeguards constitutes a balanced instrument to deal with the situations that might arise in cases of imports from economies in transition.

102. **Special criteria and rules for the imposition of anti-dumping measures:** These are based on prices in third countries with market economies or constructed values, or even on domestic prices in the country importing like products. Anti-dumping measures are the most frequent and increasing access barriers encountered by exporters from economies in transition in their major markets.

103. It should be noted that the above measures were intended to deal with the special problems of trade with "non-market economies", while many of them had a mainly political motivation. In the present context, the continuation of such measures could be defended on the ground that these countries are not WTO members. However, the systemic dimension of the accession process, i.e. whether these countries can be considered market economies or not, would certainly be the major issue in defining the terms of their accession to the WTO and their eventual benefits from the WTO system.

B. The WTO accession process

104. Technically, the WTO accession negotiations consist of three interrelated tracks.

105. **The "systemic or multilateral" track:** This track provides for consideration of the foreign trade regime and economic system of an acceding country and its compatibility with the MTAs on the basis of submission by that country of its memorandum on its foreign trade regime and subsequent rounds of questions and answers, as well as for formulation of the Working Party's report and protocol of accession, which set out detailed terms of accession. This track is conducted on a multilateral basis with the participation of all interested WTO members, although some trade regime issues may require informal bilateral and/or plurilateral negotiations between the acceding country and individual WTO members. An acceding country should expect that there may be a substantial number of very detailed questions from WTO members on any aspect of its trade and economic policies and legislation, accompanied by requests for the full text of relevant national legislation and regulations in one of the WTO's three official languages (English, French and Spanish).

106. In the accession negotiations for CIS countries many detailed questions are submitted by the WTO members in the following areas: (i) pricing practices and regulations; (ii) taxation system; (iii) subsidies to specific sectors of the economy, particularly agriculture; (iv) foreign investment regime; (v) balance of payments; (vi) customs import tariffs, including any preferential tariffs, customs fees, tariff exemptions, etc.; (vii) safeguard measures and other trade remedies (anti-dumping and countervailing measures); (viii) import licensing; (ix) export regulations; (x) state trading enterprises; (xi) standardization and certification of imported goods, and sanitary and phytosanitary standards; (xii) foreign exchange operations; (xiii) statistics and publications systems relating to foreign trade; and (xiv) the system of protection of intellectual property rights, etc.

107. In addition, a large number of detailed questions are submitted regarding the regulation of trade in services in general ("horizontal" legislation and policies) and individual services sectors such as financial services, basic telecommunications, transport and professional services.

108. Furthermore, the acceding countries are requested to respond to several WTO notification requirements (import licensing, state trading enterprises, customs valuation and technical regulations (standards)), while some WTO members request that responses to all WTO notifications be submitted during the accession process.

109. **The "market access in goods" track:** This track provides for negotiations of concessions in the area of trade in goods (mainly in the form of relevant reductions and bindings of import tariffs). These negotiations are carried out on a bilateral basis with the main trading partners (principal and substantive suppliers) of an acceding country. The list of such concessions in a WTO format (a table) forms an integral part of the protocol of accession, and is extended on an unconditional MFN basis to all other WTO members. These concessions also include specific commitments in agriculture (i.e. market access, export subsidies and domestic support).

110. **The "specific commitments in services" track**: Negotiations of commitments on trade in services are also conducted bilaterally and result in a schedule of commitments formatted appropriately (in a table) and annexed to the protocol of accession. This schedule is also extended to the other WTO members on an MFN basis.

111. Once the negotiations on the schedules on goods and services are concluded and the Working Party has completed its mandate, the working party submits its report, together with the draft decision and protocol of accession, to the WTO General Council/Ministerial Conference. Following the General Council/Ministerial Conference's adoption of the report and approval of the draft decision by a two-thirds majority of the WTO members' positive vote, the protocol of accession enters into force 30 days after acceptance by the applicant, either by signature or, if parliamentary approval is required, by deposit of the instrument of ratification.

C. Selected issues in the accession process

112. As noted above, the more stringent and detailed rules and disciplines in the WTO Agreements make accession negotiations very complex. They provide limited flexibility for developing countries and countries in transition and require more concessions from acceding countries with regard to reduction and binding of tariffs, specific commitments in agriculture (improved market access, reduction of domestic support and export subsidies), and commitments in trade in services.

113. In many respects, the WTO accession negotiations require from developing countries and countries in transition substantial concessions which could have an immediate effect on the access of foreign products to their markets (e.g. tariff reductions and bindings) and have substantive implications for domestic policy options, while the benefits of WTO membership in terms of increased access to other markets and multilateral trading rights could be felt in the longer term. For CIS countries, the benefits of WTO membership will also depend on whether they are effectively recognized as "market economies" by WTO members and hence subject to the same WTO rules and disciplines.

114. In addition, experience so far has shown that, in some cases, acceding countries may be requested by some major WTO members to accept obligations extending beyond those contained in the MTAs and/or undertake specific commitments with respect to measures which fall outside the scope of those Agreements. For example, CIS countries were requested in particular to provide extensive information on the privatization process in their respective economies and enter into a special obligation to provide regular reports on privatization after their accession to the WTO. In this context, it is important to avoid any association of this additional obligation regarding "transparency" with the presumably special status of CIS economies, as mentioned above.

115. As part of their general approach to acceding countries, some WTO members have been insisting that they agree to accept, or at least enter into negotiations to accede to, **two plurilateral (optional) WTO Agreements: those on government procurement and, in some cases, on civil aircraft**. Some of the countries which have acceded to the WTO have made commitments in this regard.[41]

116. Another concern of the WTO members has been the **principle of national treatment**, a cornerstone of the WTO system for imports of goods. As provided in Article III of the GATT 1994, national treatment requires that foreign products be treated on a basis no less favourable than that for domestically produced products. The principle has two main areas of application: laws or regulations concerning the sale, processing and use of products, and taxation. The aim is simply to prevent imposition within the importing country of what would be equivalent to a protective tariff. No product imported from a WTO member, whether subject to a tariff binding or not, may be subjected, directly or indirectly, to internal taxes or other charges higher than those borne by domestic products. All laws, regulations and requirements relating to the sale, offer for sale, purchase, transportation, distribution or use of products must be as favourable to imports from WTO members as to domestic products, the use of internal regulations requiring, directly or indirectly, that specified amounts of proportions of domestic products be used in the mixture, processing or use of products is prohibited. The national treatment rules do not apply to purchases by governments for their own use, nor do they prevent the granting of subsidies exclusively to domestic producers. In the accession negotiations WTO members have been particularly vigilant with respect to value added or excise taxes, which they consider to discriminate against imported products, or as between products from different sources, which led to commitments on the part of acceding countries to equalize taxation of domestic and imported products either upon accession to the WTO or within a very short time-limit. This issue arises in almost every case of CIS acceding countries; some of them have already taken steps to bring their taxation regime into line with the requirement of Article III of the GATT 1994.

117. Governments may charge **fees to cover the cost of facilities and formalities involved in the importation of goods**. Examples are customs fees or fees for import licences. However, such fees must not exceed the approximate cost of the service, give indirect protection to domestic producers, or represent a taxation of imports or exports for fiscal purposes. Detailed rules are set out in Article VIII of the GATT 1994. A similar provision in Article V (which requires governments to respect freedom of transit for goods) governs any transit charge. Charges under Article V are covered by the MFN rule.

118. The issue of such fees arises in almost all cases of accession of CIS countries. The result is that acceding countries undertake either to eliminate such fees or to bring them into line, upon or before accession, with Article VIII of GATT 1994.

119. The **Agreement on Trade-Related Investment Measures (TRIMS)** prohibits certain investment measures, including those which are mandatory or enforceable under domestic law, or with which compliance is necessary in order to obtain an advantage which has the effect of contravening the obligations of the GATT 1994 with respect to national treatment and the prohibition of quantitative restrictions. The type of measures specifically prohibited include those which require the purchase or use by an enterprise of products of domestic origin, including when related to the value or volume of exports by the firm concerned, i.e. "local content" requirements. The other measures specifically prohibited are those which restrict the firm concerned to importing foreign products as inputs into its production whether related to its exports or its foreign

exchange earnings ("trade balancing" requirements), or which restrict exports by the firm. Thus, the TRIMs Agreement did not bring investment into the multilateral trade rules, as has often been stated (it was the GATS that partially did this), nor did it effectively introduce new trade obligations; the prohibited measures are confined to those which, in any case, contravene the GATT 1994. The TRIMs Agreement (Article 9) provides that the question of extending the Agreement to cover investment policy *per se* will be considered in 1999.

120. However, despite the narrow scope of the TRIMs Agreement, some WTO members are seeking commitments from CIS acceding countries which touch upon their investment policies in general. They appear to be seeking commitments with respect to other investment requirements which are not specifically prohibited (e.g. export performance requirements not linked to import volumes) and even commitments to grant national treatment to foreign investors. The WTO rules cover only national treatment for goods (not investment), prohibiting only those investment measures which have the effect of contravening this requirement. Acceding countries have been asked to provide extensive information on their foreign investment laws, going much beyond the scope of the TRIMs Agreement. As part of the terms of their accession, most new WTO members undertook to achieve full consistency with the TRIMs Agreement upon their accession; only one country (Ecuador) managed to negotiate a transitional period until 1 January 2000 to achieve that consistency.

121. Under the provisions of the GATT 1994, countries are free to establish and maintain **state trading enterprises.** The aim of Article XVII is to ensure that trade conducted by state trading enterprises is subject to the same degree of discipline as trade conducted by private firms, and it contains obligations with respect to non-discrimination, negotiations to limit or to reduce obstacles to trade, the preservation of the value of concessions, import and export restrictions made effective through state trading operations and transparency through detailed notification requirements. The Understanding on the Interpretation of Article XVII of the GATT 1994 provides a working definition of state trading enterprises. The disciplines of this article apply to enterprises which, in the exercise of their exclusive or special rights or privileges, can influence the level or direction of imports or exports through their purchases or sales; thus, it is enterprises' enjoyment of exclusive or special rights or privileges, not government ownership *per se*, which brings enterprises within the scope of this article.

122. For obvious reasons, the issue of state trading enterprises attracts the priority attention of the WTO members in the accession of CIS countries. The latter have not always clearly understood that ownership is not the criterion under Article XVII, but rather the conditions and manner in which the enterprise operates. Thus privatization or transforming an enterprise into a joint stock company or to operate with special funds does not change its position as a state trading enterprise if it still enjoys exclusive or special rights or statutory or constitutional powers through which it influences, with its purchases or sales, the level of imports and exports. State-owned enterprises which do not enjoy special rights and privileges do not fall within the disciplines of Article XVII.

123. WTO members have in addition paid special attention to all kinds of monopolies which may exist in the CIS acceding countries in the fields of production and distribution, and/or in the specific sectors of foreign trade. Detailed answers concerning their product coverage, operational policies, including in particular pricing, as well as the country's intention regarding whether or when to abolish monopolies, are sought by the WTO members in the accession process. Requests for additional information are being made particularly in respect of agricultural products. Furthermore, in a reflection of concerns expressed by WTO Members that the activities of state trading enterprises may not be sufficiently transparent and may not be in conformity with WTO, acceding countries are being requested to make specific commitments on state trading enterprises, which are included in a country's protocol of accession, undertaking to apply its laws and regulations in conformity with Article XVII of the GATT 1994, the Understanding on the interpretation of that article, and Article VIII of the GATS.

124. **The Agreement on Subsidies and Countervailing Measures:** This Agreement, which covers only industrial goods (basically those falling under HS Chapters 25-99), contains newly established multilateral rules and disciplines, and

associated agreed definitions with regard to:

- **Subsidies**: their definition and classification as prohibited, actionable and non-actionable subsidies; the key concepts of "specificity" of subsidies, "injury" to domestic industry caused by subsidized imports, and "serious prejudice" to the interests of other WTO members; and remedies available to offset prohibited and actionable subsidies;

- **Countervailing measures**: specific rules and procedures dealing with the initiation and conduct of countervailing duty investigation; rules regarding calculation of the amount of a subsidy and determination of material injury to a domestic industry; rules and procedures for application of provisional measures, imposition and collection of countervailing duties, and undertakings concerning elimination or limitation of a subsidy or price undertakings; "de minimis" rules for the application of countervailing measures; duration of measures ("sunset rule") and other procedures.

125. The Agreement is one of the three Multilateral Trade Agreements which contains specific rules and procedures on subsidies aimed at offering temporary flexibilities to countries moving from a centrally planned to a market, free-enterprise economy. However, WTO members do not grant an automatic extension of these flexibilities to a newly acceding country. They request that each request to use this special provision should be subject for negotiation and extensive justification on the part of an acceding country, supported by relevant information and data.

126. Acceding countries' industrial subsidy programmes and measures generally receive priority attention from major WTO members in the course of the "multilateral track" of accession negotiations.

127. **The Agreement on Agriculture**: The Agreement on Agriculture establishes, for the first time, operational disciplines regulating market access, export competition and domestic support measures. It covers products in HS Chapters 1-24, excluding fish and fish products, but including animal- and vegetable-based raw materials and some foodstuff additives. The Agreement provides for a lower level of obligations for developing countries, while the least developed countries are totally exempt from its obligations. However, the Agreement is silent on the situations which may exist in the agriculture of economies in transition.

128. The Agreement is built on three elements: (i) market access commitments; (ii) a commitment to bind and reduce support to domestic producers of agricultural products, aiming at a 20 per cent reduction of the aggregate measure of support (AMS); and (iii) binding and reduction of export subsidies.

129. Owing to this Agreement's very complicated and dramatic negotiating history in the Uruguay Round, and in particular a large number of compromises and trade-offs among participants, the acceding countries may find it quite confusing to adapt to its parameters. For example, on market access commitments, the key concept of "tariffication" and its modalities are not mentioned in the Agreement. In accession negotiations, WTO members are insisting that "tariffication" was an instrument used only for the participants in the Uruguay Round, while the newly acceding countries are not entitled to establish tariff equivalents for their non-tariff measures affecting agricultural imports and should eliminate all such measures upon their accession. The base period for calculating agricultural commitments is another confusing point.

130. **The WTO "contingency protection" Agreements**: The WTO "contingency protection" Agreements - the Agreement on Safeguards, the Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping) and the Agreement on Subsidies and Countervailing Measures - are not mandatory in the sense that WTO members are not obliged to apply them or to adopt relevant national legislation. But if a country decides to apply measures to deal with injury caused by rapidly increasing, subsidized or dumped imports, it will have to respect all the relevant provisions of these Agreements, which are highly technical, and enact implementing legislation in conformity with the latter. For example, in accession negotiations WTO members are likely to request the

existing or draft legislation for review and will seek a commitment from an acceding country to adapt such legislation in every technical detail to the provisions of these three Agreements. Some CIS acceding countries have already submitted their new legislation in these areas for review by WTO members. However, except for a few safeguard measures, none of those countries have yet used these instruments in practice.

131. **The TRIPs Agreement**: The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) requires each WTO member to provide specified minimum standards of intellectual property protection, and to enforce them through its domestic legal system. The standards involved include, and in some cases go well beyond, the substantive requirements of the main international agreements on intellectual property: the Berne (copyright) and Paris (patent) Conventions, and the Washington Treaty (integrated circuits) and other agreements of the World Intellectual Property Organization.

132. Patents must be available for inventions in all fields, including pharmaceuticals. They must give protection for at least 20 years, and must not discriminate on grounds of place of invention, field of technology, or whether products are imported or locally produced. Under transitional provisions, countries that now exclude some products (notably pharmaceuticals and agricultural products) from patent protection need grant it only from January 2005, but must already accept applications for such protection. Copyright protection must extend to computer programs, databases, and sound and film recordings. Trademarks must be given seven-year renewable protection and cannot be required to be used in combination with local marks. Misleading or unfair geographical indications (such as wine names traditionally associated with a producing area) are banned. Ten-year protection must be provided against unauthorized making, selling or importing of articles incorporating industrial designs. Integrated circuit designs are also protected for at least ten years, with strict conditions on government use and compulsory licensing, and trade secrets must not be disclosed.

133. Enforcement procedures are to be effective, fair and equitable, and must not create trade barriers or encourage abuse. They must permit review, allow interim measures to prevent goods from being introduced into commerce after customs clearance, and provide for damages, seizure, and disposal of goods. In this context, major WTO members pay priority attention to the enforcement of border measures against counterfeit goods, as provided in the Agreement. Counterfeiting or copyright piracy on a commercial scale is to be punished by deterrent imprisonment or fines.

134. For developed countries, the whole TRIPs Agreement has been in force since January 1996. For developing countries, and countries in transition to a market economy, most TRIPs provisions apply only from January 2000. Least developed countries have until January 2006, with provision for possible extension. However, one aspect of the TRIPs Agreement has applied to all WTO members since January 1996: whatever intellectual property protection they provide must be provided on a basis of MFN and national treatment. This means, for example, that even if a developing country grants patents for only ten years, it must grant that ten-year protection to all foreign, as well as domestic, patent holders.

135. TRIPs is one of those areas in the accession process in which there has been a large number of requests for information and explanations as well as very detailed questions concerning various areas covered by the TRIPs Agreement. The inquiries have concerned progress in the promulgation of the necessary legislation, its scope and applicability, and, in particular, conformity with the TRIPs Agreement. Acceding countries have been likewise asked to describe their enforcement system for intellectual property rights, including civil and administrative procedures and remedies.

136. The most important question with regard to compliance with the TRIPs Agreement, however, is not the due promulgation of each relevant piece of legislation and juridical procedures, but the clear pressure from the major WTO members to ensure that the acceding countries comply with all obligations of the TRIPs Agreement upon the date of their accession, regardless of the transitional periods stipulated by the Agreement. All four countries which concluded their accession negotiations in 1995-1996 (Ecuador, Mongolia, Bulgaria and Panama) committed themselves to full compliance with the Agreement upon the date of their accession.

137. In addition to the requirements to fully apply all the provisions of the TRIPs Agreement, the WTO members require acceding countries to provide evidence and justification of enforcement of intellectual property protection. Concerns have also focused on the following issues: application of the principle of national treatment in all areas of TRIPs and lack of transparency in the application and acceptance procedures, especially in the fields of patents and copyrights, and differential procedures and higher fees for foreign patent seekers. These problems are particularly in evidence in all accessions of CIS countries, where the WTO-consistent regime of intellectual property protection is gradually being formed, although in many cases there are still wide gaps in legislation and practices. In addition, enforcement of national legislation on intellectual property has been identified as a major problem faced by practically all acceding CIS countries. However, this is a general problem of the transition process involving difficulties in the establishment of the "rule of law" principle.

138. An acceding country's trade relations with its major trading partners will also be scrutinized in much detail, especially if these relations are conducted on the basis of **preferential trade agreements,** such as free trade areas or customs unions. In this context, an acceding country should be able to explain the relation of such agreements to the relevant provisions of the GATT 1994 (Article XXIV) and the GATS (Article V). In such cases, it can be expected that countries outside the existing regional or preferential agreements would press hard for concessions from an acceding country so as to reduce tariff margins and other preferential treatment. If regional agreements are under negotiation, these should be fully coordinated with the WTO accession process. In particular, if regional or preferential trade options are available, consideration could be given to the sequencing of the WTO accession negotiations and respective regional initiatives, depending on the relevant interests and the level of trade with countries in the region, as it might be preferable to conclude the regional negotiations before entering into the WTO accession negotiations. In the accession of CIS countries, their mutual preferential agreements, have given rise to numerous detailed questions from WTO members. The problem here relates not only to the WTO consistency of such agreements, but also to the strategies of CIS countries themselves. In particular, CIS countries belonging to a customs union agreement have found themselves in a difficult situation with regard to explaining how it affects their WTO accession as individual countries.

139. The majority of the CIS countries currently in the process of accession to the WTO are implementing macroeconomic or structural adjustment programmes of the IMF/World Bank. This may complicate their position in the accession negotiations. First, the conditions imposed on trade regimes by the international financial institutions may exceed those in the WTO obligations, for example with respect to tariff rates where the countries concerned have been obliged to reduce those rates drastically on a unilateral basis, and with respect to subsidies where structural adjustment programmes provide for the elimination of certain generally applicable subsidies which are defined as "non-specific" under the WTO and hence "non-actionable". The Agreement between the IMF and the WTO, which was approved by the WTO General Council on 13 November 1996, provides a broad framework for cooperation between these two institutions. In particular, it stipulates (in paragraph 11) that the IMF will provide the WTO, for the confidential use of its secretariat, with staff reports on Fund members seeking accession to the WTO, subject to the consent of that member.[42]

140. WTO countries will argue that the currently applicable tariff should provide the basis for negotiations, i.e. that tariff reductions and bindings should be at levels equal to or less than the current rates. In some acceding countries, however, the current rates reflect the conditions of IMF structural adjustment programmes and may be lower than those required to permit the development of viable industries. Acceding countries may seek to negotiate "ceiling" bindings, i.e. tariff bindings in excess of the actual applied rate, or tariff quotas at lower rates.

141. Some acceding countries have been requested to eliminate all export duties. It should be borne in mind that this is a very onerous and unique concession in the sense that, with the exception of several tariff lines in one or two countries, no WTO member has ever bound any export duties or limited its freedom in any way in this respect.

142. **Accession negotiations on trade in services:** These negotiations proceed as a two-tier process covering (i) the multilateral consideration of the services regime as part of the Memorandum on the Foreign Trade Regime and the subsequent question and answer procedure in the Working Party; and (ii) bilateral negotiations, which start after the acceding country has submitted its initial offer on commitments in services and requested bilateral consultations. In the multilateral stage of negotiations most questions that countries ask are aimed at identifying current regulatory measures, and the substance of any ones planned in the near future, that prevent services from being provided by foreign firms or across borders or that discriminate against locally established firms with foreign ownership. The majority of questions seek information on the criteria for issuing licences or requirements for registration, where objectivity and the absence of discretionary measures are sought. In this sense, in the case of the negotiations on services, the question and answer procedure in the Working Party is much more relevant to the bilateral negotiations of commitments than in the case of goods, in that in services the information supplied to the members of the Working Party can provide them with information essential to their formulation of requests for sectoral or sub-sectoral commitments. In this context, a country in the process of accession should undertake a thorough study of its services sectors, in particular to identify (i) the services sectors which are sensitive and which it does not wish to include in its schedule of commitments; (ii) sectors in which it has achieved a degree of competitiveness allowing it to open them up with only a limited threat to its domestic producers; and (iii) services where it may wish to invoke MFN derogations.

143. During the accession negotiations, major trading partners will ask for market access and national treatment in a wide range of services of interest to them. Experience has shown that telecommunications, financial services (including banking and insurance), and business and professional services, are of particular importance to them.[43]

144. Acceding CIS countries have found preparations for and the conduct of negotiations in the area of trade in services particularly difficult and demanding in that many services sectors were not subject to regulations under the centrally planned economy, as foreign service suppliers were generally not allowed any access at all. Thus, the liberalization process has often resulted in a move from a situation of no market access to almost completely unrestricted access. Consequently, countries in transition often have some difficulty in explaining the regulatory criteria applied, e.g. those used in granting licences.

D. Some conclusions

145. It is expected both by the acceding economies in transition and by the WTO members that accession to the WTO will contribute substantially to the transition of the former to market-oriented economies. Keeping this objective in mind, it would be desirable that this systemic transformation of these countries be given greater priority in the accession negotiations than that given to a traditional trade liberalization focus (e.g. reduction of tariffs and other restrictions on market access). Given these countries' past and their present difficult economic and social realities, it is vital that the WTO accession negotiations result in establishing in these countries foreign trade regimes, legislation and regulatory frameworks that are fully consistent with the WTO requirements and are sensitive to them. The challenge is also to achieve enforcement of the WTO-consistent legal framework in these countries. This would allow CIS countries to undertake, as members of the WTO, further trade liberalization in an effective manner, taking into account their internal developments such as resumption of economic growth, the structural adjustment process and the increased capacities of their economies to compete internationally.

146. In order to achieve accession on balanced terms the acceding countries in transition should elaborate their major negotiating objectives on the basis of a detailed analysis of their basic economic strategies and policies and their conformity with WTO rules and disciplines. This should include the identification of existing and potential internationally competitive sectors of the economy, and take account of an acceding country's need to protect socially important sectors and "infant" industries. Much effort should be

invested in the resolution of "residual" systemic issues with the WTO members so as to enable CIS countries to become "normal" WTO members without special treatment as "non-market economies".

147. A political consensus should be built within an acceding country relating to all issues requiring substantive adaptation of policies and legislation to conform with WTO requirements.

148. Major efforts should be undertaken to establish effective governmental machinery to support the accession negotiations, which has adequate authority to coordinate this process among various governmental agencies, as well as with the legislature and trading enterprises. It is also important to be able to resolve purely technical and logistical problems, such as the need to process a substantial amount of documentation, including translating relevant legislation into official WTO languages.

149. An acceding country should make full use of its observer status in the WTO in order to better prepare for its accession negotiations. In particular, attendance at working parties for other acceding countries will offer first-hand experience of the complexities of such negotiations. Also, the country should give priority attention to informal methods of work with the relevant WTO members, which is a customary practice in the WTO.

150. Accession negotiations and eventual WTO membership will require considerable strengthening of the national institutional infrastructure in the acceding countries. Many CIS acceding countries have found themselves poorly equipped in terms of human and financial resources to meet this challenge, but only after applying for WTO accession. A major effort on their part is required with respect to institution building and the upgrading and specialization of human resources and improved forms of information collection, coordination and management. It is clear that these acceding countries need the comprehensive and impartial support of the international community, includingreadilyavailable technical assistance.

CHAPTER II. Bilateral trade agreements

A. Partnership Agreements with the EU

151. Shortly after becoming independent, and parallel with the process of seeking accession to the WTO, the CIS countries established contractual trade relationships with various trading partners through bilateral trade agreements aimed at replacing the agreements on trade and cooperation signed by the Soviet Union before its dissolution. The most important of these are the Partnership and Cooperation Agreements (PCAs) with the European Union and its member States, the Russian Federation Partnership Agreements with other CIS countries, and the Bilateral Trade Agreements with the United States.

152. The EU has become the major trading partner of the Russian Federation and the major Western partner of the rest of the CIS countries. Most of the CIS countries accepted the EU proposal for the conclusion of PCAs as a new conractual basis for their mutual trade, and where possible, sought recognition of the possibility of the eventual establishment of a free trade area with the EU.

153. So far, PCAs have been negotiated and signed with Russia, Ukraine (June 1994), Moldova (November 1994), Kazakhstan (January 1995), Kyrgyzstan (February 1995), Belarus (March 1995), Azerbaijan, Armenia and Georgia (April 1996), and Uzbekistan (June 1996). A similar agreement with Turkmenistan was initialled in May 1997. As regards Tajikistan, negotiations are not yet foreseen.

154. The trade provisions of the PCAs do not require formal ratification and can be applied in advance through Interim Agreements which, as they enter into force, automatically replace the trade provisions of the 1989 Agreement with the FSU.

155. The PCAs are established basically with regard to a number of articles in the treaty establishing the European Community and the relevant articles in the treaties establishing the European Coal and Steel Community and the European Atomic Energy Community. The EU's intention was to negotiate substantially similar agreements with all CIS countries. However, the increasing disparities between them, and the outcome of the negotiations with Russia, led the European Commission to propose a new strategy differentiating between the "European" CIS (Russia, Ukraine, Belarus and Moldova), to which the economic concessions (if not all the political ones) agreed with Russia were extended, and the others. The Council of the European Union endorsed this approach in March 1994 and subsequently approved modifications to the original negotiation mandate in the case of each of the "European" CIS countries. PCAs are a "halfway house" between standard framework agreements of the sort the Commission has negotiated with a number of countries around the world, and the "Europe" Association Agreements, which clearly provide for the establishment of a free trade area with the EU.

156. The PCAs provide for an institutionalized political dialogue and contain detailed trade- and investment-related provisions, but do not establish a preferential relationship (i.e. they do not offer concessions beyond those granted to GATT/WTO partners). The possibility of such a relationship in future is, however, raised in the PCAs with the "European" CIS countries; as explained in the preamble, the PCAs envisage the possibility of creating conditions for the establishment of a free trade area, but this provision is much weaker than that in the Association Agreements.

157. Trade with some CIS countries in a number of specified products (textiles, steel and coal, nuclear products) is subject to separate bilateral agreements. Most bilateral textile restraint agreements concluded in 1993 have been extended until 31 December 1998 and updated to take into account the enlagement of the EU. The textile agreement with Russia, which expired on 31 December 1996, is currently being renegotiated. The textile agreements with Russia, Belarus, Ukraine and Uzbekistan provide that quantitative restrictions may be applied by the EU (Chapter IV(4) (iii)[44]. In addition, negotiations are being conducted with Russia and Ukraine to renew for five years the existing voluntary restraint arrangements concerning selected steel products (Chapter III(3)).

158. The EU is currently conducting discussions with Ukraine, Uzbekistan, Kazakhstan and Kyrgyzstan with a view to concluding agreements on nuclear products.

159. As these countries are not members of the WTO, the EU is not bound to phase out the textile restraint agreements, as requested by the WTO Agreement on Textiles and Clothing, nor the voluntary export restrictions (as required by the WTO Agreement on Safeguards).

160. The main elements of the PCAs are:
- Preamble or similar type of text
- General principles
- Political dialogue
- Trade in goods
- Provisions on business and investment
  - Labour conditions
  - Establishment and operation of enterprises
- Cross border supply of services
  - Provisions for specific services sectors.
- Payments and capital investments
- Competition
- Intellectual property protection, including legislative cooperation
- Economic cooperation
  - Provisions for specific areas
- Institutional and general provisions
- Annexes
- Protocols
- Final Act, including Joint Declarations and exchange of letters related to different articles or issues.

161. The above list of elements is taken from the PCA of the Russian Federation, which is the most extensive in scope and coverage. The other PCAs are broadly along the same lines, although some provisions are formulated less specifically, especially in the case of the PCAs with the Central Asian republics. The main provisions are described below.

162. ***Preamble:*** The preamble contains a number of statements of intention, notably regarding commitments to uphold democracy; human rights and the rule of law and the principles set out in the OSCE documents. It expresses EU support for the independence, sovereignty and territorial integrity of the partner, and notes the importance for implementation of continuing reform. The preamble also expresses the principal objective underlying the PCA concept - i.e. the gradual drawing-in of the partner into the wider European space. Article I, which in the Russian PCA forms a preamble type of text, lists as one of the aims of the partnership "to create the necessary conditions for the future establishment of a free trade area between the Community and the RF, covering substantially all trade in goods between them as well as conditions for bringing about freedom of establishment of companies, of cross-border trade in services and of capital movements". The "evolutionary clauses" in the PCAS of Ukraine, Belarus and Moldova offer the prospect to establish a free trade area with the EU, if the conditions permit, but the wording is more vague than that in the Russian agreement. There is no mention of this possibility in the PCAs with other CIS countries.

163. The "preamble part" of the text of the Russian PCA recognizes that Russia is no longer a state-trading country, that it is now a country with an economy in transition and continued progress towards a market economy will be fostered by cooperation between the parties in the forms set out in the PCAs. The other PCAs do not make this recognition.

164. **General Principles** reiterate the essential elements (democracy, human rights, market economy) underlying the Agreement. They stress the importance of regional cooperation and agreement, reiterate the aim to establish a free trade area with the EU (Article III in the Russian Agreement providing for a review in 1998). Further, the general principles provide for examination of possible amendments which may be appropriate to make in view of changes in circumstances, and in particular of the situation arising from accession to the WTO. They also provide for a transitional period which the CIS countries can depart from the most-favoured-nation treatment with respect to their mutual relations. A regular political dialogue is provided for at ministerial level and below, and also at parliamentary level.

165. **Trade in Goods**: Both parties offer most-favoured-nation treatment regarding tariffs and duties, which reserve the CIS members' right to conclude WTO-compatible preferential arrangements. Any intra-CIS arrangements which are not compatible must be made subject to the MFN clause by the end of 1998.

166. Trade in goods other than textiles, coal and steel are liberalized and the latter made subject, if necessary to bilateral agreements. However, both sides may, if facing damaging import flows, use the safeguard clause (more liberal for the European CIS) and the PCAs with the European CIS have an annex which allows for the introduction of temporary quantitative restrictions under certain conditions. (Annexes 2 and 9 in the Russian Agreement).

167. There is a commitment to apply WTO anti-dumping provisions (with a consultation clause for European CIS). All CIS countries, expect Russia, commit to trade at market prices ("price clause"). The respective articles in all PCAs provide that "nothing in this Title and in relevant Articles on safeguards, in particular, shall prejudice or affect in any way the taking, by either Party, of anti-dumping or countervailing measures in accordance with Article VI of the GATT, the Agreement on implementation of Article VI of the GATT, the Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT or related internal legislation".

168. Despite the recognition in the Russian PCA that Russia is no longer a state-trading country, the EU legislation concerning protection against dumped import (Regulation 384/96 and Decision CSCE/2277/96) which stipulate that "different rules apply to products originating in a non-market economy, in which case a surrogate normal value is calculated, has still both applied to imports from Russia. This is based on prices or production costs in a market economy, but ensuring that the choice of market economy is a fair and reasonable one for making the comparison". However, in late 1997 the Commission of the EU made a proposal to the Council of EU and the European Parliament on the treatment of former non-market economies in anti-dumping proceedings which would amend the Council Regulation (EC) No. 384/96. The justifications for this proposal are, i.e. that in case of Russia, the remarkable advances brought about by economic reform remain unrecognized in EU anti-dumping legislation. The issue is one of the main outstanding points in the bilateral EU relations with Russia. The Russian authorities have, at the very highest political level repeatedly questioned the NME status under the anti-dumping rules in the light of the economic reforms that have taken place. The purpose of this proposal is to introduce specific adjustments to EU anti-dumping practice based on an objective assessment of existing economic conditions in Russia without weakening the EU's commercial defence instruments. In particular, this proposal will allow a degree of flexibility on a case-by-case basis to accommodate instances where the existence of verifiable market economic conditions prevail. It will also remove the labelling of Russia as NMEs, and it will introduce a more systemic approach to the calculation of individual treatment and comparative advantage. (This proposal also concerns China). It seems likely that this proposal will be positively considered in the EU decision making bodies.

169. The further specific provisions concerning trade in goods in the Russian PCA are the following:

The Agreement confirms the removal of all quotas and other quantitative restrictions on Russian exports to the EU, with the exception of certain textile and steel products. The Agreement also includes a safeguard clause. This is phrased in a language which draws heavily upon Article XIX of GATT. However, a Joint Declaration of the Annex stipulates that "the text of the safeguards does not grant GATT safeguard treatment".

The PCA does not provide for immediate specific tariff changes, as it was considered that the Russian industry needed time to adjust. However, both sides agreed to consult before increasing tariffs on each other's imports.

170. **Labour conditions** forbid discrimination on working conditions for legally-employed nationals of the other party. The PCA's with the European CIS also have provisions on coordination of social security for their workers in EU countries.

171. **Establishment and operation of enterprises**: In general this section provides mutual MFN treatment to the investing companies of the EU and the CIS

countries concerned. The CIS countries also offer non-discrimination compared to domestic companies (national treatment). National treatment or MFN, whichever is the better, is the basic standard also for treatment of already established companies. There are some special conditions for shipping agencies. The CIS countries have committed themselves not to introduce restrictive legislation without warning and in any event to allow investors a three-year grace period. There is a standstill requirement concerning new foreign exchange restrictions.

172. The PCA with Russia provides in particular that repatriation of funds and dividends shall be mutually unrestricted concerning foreign direct investments. Russian banks and insurance companies will be able to establish a subsidiary in the EU and, in return, the Russian market will be progressively opened for EU banks and insurance companies. In addition, Russia exempts five EU banks from a decree barring foreign institutions from accepting deposits from Russian nationals; these banks had obtained licenses before the decree was issued. Furthermore, MFN treatment will be granted in the case of cross-border trade in a number of services. Specific arrangements cover labour conditions, taxation and competition including approximation of legislation in these areas.

173. **Intellectual property rights:** In general all CIS countries commit themselves in the PCAs to continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of the agreements, for a level of protection similar to that existing in the EU, including effective means of enforcing such rights. In addition, the PCA with Russia makes a specific reference to the obligations arising from a number of multilateral conventions related to intellectual property rights. It further establishes a regular review procedure concerning the implementation of the relevant provisions.

174. **Cooperation:** A range of economic, legislative, environmental, scientific, cultural and other cooperation chapters cover most non-military activities, including financial support by the EU on the basis of the relevant EU Council regulations on technical assistance to CIS countries.

175. In the case of the three Trans-Caucasian republics and Uzbekistan, there will be new titles on assistance in the fields of democracy and human rights and in combatting illegal activities, and a new chapter offering assistance to prepare the partner for accession to the WTO.

176. **Institutional and general provisions:** Institutional and general provisions include, inter-alia, the establishment of:

the Cooperation Council (at Ministerial level)
the Cooperation Committee (at official level)

177. **The Dispute Settlement Procedure:** The "suspension clause" allows a party to suspend the agreement if the "essential elements" (general principles) are breached. In the Russian Agreement, there are provisions for the dispute settlement making reference to any internationally recognized arbitration rules including the UNCITRAL rules, under which a dispute may be resolved. Article XIII on national security stipulates that the provisions of the Agreement shall not limit the right of either party to take any action for the protection of its security interests, a wording which leaves a lot to be interpreted under the circumstances. General exceptions also make a reference to the Article XX of the GATT.

178. **Protocol:** Normally, there is a single protocol, on mutual administrative assistance for the correct application of customs legislation. In the Russian Agreement, there is also a protocol on the establishment of a coal and steel contact group. The agreement is concluded for 10 years with thereafter tacit annual renewal.

179. The PCA with Russia provides for adjusting the Agreement in the event of Russia acceding to the WTO. The Agreement explicitly refers to the applicability of WTO Articles in areas such as MFN treatment, national treatment or internal taxation, freedom of transit, customs valuation, trade formalities and charges and marks of origin. Transitional provisions allow for some special relations between the CIS member countries. The Russian PCA as a whole entered into force on 1 December 1997.

B. Agreements on trade relations with the USA

180. After the breakdown of the former Soviet Union, the USA took an initiative to continue to maintain at least formal trade relations with the emerging independent republics. They were offered the possibility to sign the text of the Agreement on Trade Relations signed in 1990 between the USA and the Union of Soviet Socialist Republics, but without entering into any substantive negotiations of the provisions of the agreement or even changes in the text going beyond the recognition of the emerging states. It is noteworthy that this process took place at the same time when at least some negotiations took place concerning the provisions of the Partnership Agreements between the EU and certain CIS countries. Many of the Agreements on Bilateral Trade Relations with the USA were signed already in 1992, i.e. with Armenia, Kyrgystan, Moldova, Russia and Ukraine, followed by Azerbaijan, Belarus, Georgia, Kazakhstan, Tajikistan, Turkmenistan and Uzbekistan in 1993. Thus, this process was also finalized much quicker than concluding the PCAs. The essential content and provisions of the Agreements do not vary from country to country.

181. Although there is a rather strong emphasis on most-favoured-nation treatment as regards customs duties and charges, methods of payment, rules of import and export formalities, taxes and other internal changes and other rules related to foreign trade transactions as well as non-discriminatory treatment with respect to the application of quantitative restrictions and the granting of licenses, the exemptions embodied in the agreement practically limit all real liberalization of trade. The provisions of the first three paragraphs of the Agreement do not apply to:

(a) advantages accorded by either Party by virtue of such Party's full membership in a customs union or free trade area;
(b) advantages accorded to third countries for the facilitation of frontier traffic;
(c) advantages accorded to third countries in accordance with General Agreement on Tariffs and Trade (the GATT), and advantages accorded to developing countries under the GATT and other international agreements, and
(d) actions taken under Article XI (Marked Disruption safeguards).

182. The Agreement encourages the development of mutual trade relations on the basis of reciprocity, the improvement of mutual market access for products and services, and to optimize commercial opportunities, including through the satisfactory reciprocation of market opening measures resulting from multilateral negotiations. There are, however, no commitments but the expectation that technical barriers to trade should not be applied in a discriminatory manner.

183. The bulk of the agreement deals with the expansion and promotion of trade and business facilitation including financial provisions under the assumption that the trading partners concerned remain more or less a non-market economy, although the transparency requirements and provisions on the protection of intellectual property rights have a hint of advanced approach to the emerging international trading system which was negotiated within the Uruguay Round. Article XI on the market disruption safeguards give the right to the parties, in the failure of consultations concerning the existing or a threat of a significant market disruption, to:

(a) impose quantitative import limitations, tariff measures or any other restrictions or measures it deems appropriate, and for such period of time it deems necessary, to prevent or remedy threatened or actual market disruption[45], and

(b) take appropriate measures to ensure that imports from the territory of the other Party comply with such quantitative limitations or other restrictions introduced in connection with market disruption. In this event, the other Party shall be free to deviate from its obligations under this Agreement with respect to substantially equivalent trade. Where in the judgement of the importing Party, emergency action is necessary to prevent or remedy such market disruption, the importing Party may take such action at any time and without prior consultations provided that

such consultations shall be requested immediately thereafter. The agreement, however, acknowledges that the elaboration of the market disruption safeguard provisions in this Article is without prejudice to the right of either Party to apply laws applicable to unfair trade, as further explained in the part concerning US trade policy in connection with the accession of the CIS countries to the WTO. Thus, the United State is under no obligation to modify its legislation (e.g. Section 406) applying to non-market on "communist" countries.

184. **Some conclusions:** In assessing to what extent the partnership and other bilateral agreements provide for real integration of the CIS countries into the international trading system, the following observations can be made:

- One of the main barriers to the "effective integration" of countries in transition into the trading system is the retention by major trading countries of discriminatory trade laws and regulations previously applied to the trade of these countries on the basis of their "non-market" or "state trading" character, which now is no longer relevant.

- To the extent that the partnership agreements or other bilateral trade agreements, (as in the case of those with the United States) retain such devices, contain concepts and provide for the use of mechanisms passed from the WTO, such as the concept of "market disruption" and the mechanism of voluntary export restraints, they do not contribute positively to the integration into the trading system.

- The fact that the CIS countries have accepted these concepts/mechanisms in the bilateral context complicates their WTO accession negotiations, as the need to seek elimination of these mechanisms/concepts introduces a further complicating element into the negotiating process.

- The bilateral agreements between the USA and the CIS countries do not present any significant evolution in the trade relations. The text of the 1990 Agreement on Trade relations between the USA and the former Soviet Union is applied without any new negotiations or taking into account the partly very profound changes and reforms in the economic and trading systems of the former Soviet republics. In this regard the PCAs with the EU present a considerable step forward in integrating the CIS countries into the international trading system.

C. The eligibility of the CIS countries for the GSP Schemes of the EU, USA and Japan

185. Aiming to support the transition process, the major developed trading partners (EU, USA and Japan) have included the majority of CIS countries as beneficiaries in their GSP schemes[46]. The EU revised its GSP in the mid-90s and the scheme for industrial products took effect on 1 January 1995 and for agricultural products 1 January 1997. The GSP "scheme" is based on two complementary mechanisms for "modulation" of tariff preferences and "graduation". The CIS countries affected by the sector/country graduation mechanism since the entry into force of the EU's scheme are Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Ukraine and Uzbekistan. Armenia, Azerbaijan, Tajikistan and Turkmenistan are also eligible under the EU GSP scheme.

186. Under the new GSP scheme, the EU introduced a special incentive regime aimed at helping beneficiary countries "to improve the quality of their development through the application of more advanced social and environmental policies" (Articles 7 and 8 of Council Regulation 3281/94).[47] Since the previous review, the EU has been examining the eligibility criteria for GSP treatment and was expected to complete this work by the end of 1997. The rates and lists of products are not scheduled for further review before January 1999 for industrial products and 30 June 1999 for agricultural products.

187. The United States GSP scheme was suspended several times in mid-1990s but

extended afterwards although on rather short-term basis. The latest extension means the scheme will be in force from 1 June 1997 to 30 June 1999. A number of CIS countries became eligible for the scheme already in the first half of the 1990s: in 1993 Russia and Kyrgyzstan, in 1994 Armenia, Belarus, Kazakhstan, Ukraine and Uzbekistan and Moldova in 1995. The list of eligible CIS countries has not been extended leaving Azerbaijan, Georgia, Tajikistan and Turkmenistan outside the scheme, at least for the present.[48]

188. The United States' GSP contains eligibility requirements for beneficiaries, including that the country has to be found to be taking steps to provide internationally recognized worker rights, a petitioning process, administered by USTR through the GSP programme, used to enforce the worker rights criterion. A petition concerning Belarus has been filed in mid-1997.[49]

189. Japan's current GSP scheme is extended until year 2001. About 5 per cent of Japan's total imports enter under GSP benefits and the beneficiaries currently comprise 155 countries and 25 regions. All the CIS countries apart from Russia had been added to Japan's list of GSP beneficiaries by April 1997: Armenia, Ukraine, Kazakhstan, Georgia, Turkmenistan, Belarus, Moldova in April 1995, Uzbekistan, Tadjikistan and Kyrgyzstan in April 1996, and Azerbaigian in April.

190. A country becomes a beneficiary of Japan's GSP scheme only after having requested preferential treatment. Beneficiaries are designed by a cabinet order subject to meeting some criteria. Russia has so far not requested GSP treatment from Japan and is thus not a beneficiary. If Russia should make a request, its case would be duly examined.

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ENDNOTES

1. In 1989, 84 per cent of Bulgaria's exports and 71 per cent of its imports were effected within the CMEA. For Czechoslovakia the respective percentages were 73.4 and 76.1, for Hungary 41 and 39.2, for Poland 39.3, for Romania 39.9 and 60.1 and for the USSR 46.5 and 51.7 (see UNCTAD, (TD/B/1234/Add.1), pp. 24-25).

2. *Trade Policies, Structural Adjustment and Economic Reform: Increased Participation in international Trade in Goods and Services by developing countries and economies in Transition: Some Problems and Opportunities* (UNCTAD, TD/B/40(2)/7)

3. See Pitshugin B., *Mirovaya Ekonomika I Mezhdunarodnie Otnoshenia"*, no. 3, Moscow, 1995, p.29.

5. See L. Kossikova, *Ekonomika*, no. 9, Moscow, 1-15 May 1993.

6. IMF *Economic Reviews*,no 16, 1994, "Russian Federation", Washington D.C., 1995, p. 43.

7. *Ibid.*

8. UNCTAD, 1994, TD/B/40(2)/7/Add.1, table 5.

9. See A. Elyanov, "Russia on the world market", *Mirovaya Ekonomia i Mezhdunarodnie Otnosheniya*, no. 11, Moscow, November 1995.

10. See L. Kossikova, *Ekonomika*, no. 9, Moscow, 1995.

11. "Information on the treatment provided under preferential arrangements", submitted by the Permanent Mission of the Russian Federation to the WTO Working Party on the Accession of the Russian Federation.

12. *Finansovie Izvestiya*, no. 85, Moscow, 11 November 1977.

13. State Customs Committee of the RF.

14. Ibid. and ECE *Economic Bulletin for Europe* (1997), table 2.2.2.

15. 3 State Customs Committee of the RF estimates the positive trade balance for the first half of 1997 at only $5 billion, which corresponds to the ECE figures above quoted minus "shuttle trade" imports (see *Finansovie* , no. 85, Moscow, 11 November 1997).

16. See Elyanov, *op. cit.*

17. *Ibid.*, p. 25

18. *Ibid.*

19. *Ekonomika i Zhizn*, no. 7, February 1996.

20. Quoted from Novitschkov and Milovanova, *Finansovie Izvestiya*, no. 12, Moscow, 6 February 1996.

21. See *Märkte der Welt*, 15 February 1996.

22. UNCTAD, 1994, TD/B/40(2)/7/Add.1, Table 5.

23. Calculated from UNCTAD, op. cit.

24. Uzbekistan is the third largest aeroplane producer ithe CIS (after Russia and Ukraine). The TAPOITsch factory in Tashkent, which belongs to the CIS Aviaprom AG, produces IL 62 and IL 74 passenger planes. There are plans to produce the new IL 114 passenger plane. See *Märkte der Welt*, Beilage "Uzbekistan", Cologne, Berlin, 1995.

25. The largest space centre in the FSU - Baikonur - is in Kazakhastan and is now operated jointly with the Russian Feaeration.

26. United Nations, *Monthly Bulletin of Statistics*, vol. XIX, no. 5, May 1995, p. 278.

27. *Economic Survey of Europe 1991-1992*, table 3.3.1.

28. On this issue see also paragraph 47.

29. See the communication from the Permanent Mission of the Russian Federation to the Working Party on the Accession of the Russian Federation to the WTO (December 1997).

30. See WTO (1997). *Accession of the Republic of Moldova: Memorandum on foreign Trade regime*, WT/ACC/MOL/2.

31. On debts of developing countries see box in paragraph 3.

32. See *Ekonomicheskaya Gazeta*, Moscow, 11 March 1996.

33. S. J. Linz, "Russian firms in transition: Champions, challengers and chaff", *Comparative Economic Studies*, vol. XXIX, no. 2, Summer 1997, pp. 1-36.

34. The WTO definition of commercial services is based on the IMF balance-of-payments statistics for invisibles except investment income, other official goods, services and income, private and official unrequited transfers, and labour income.

35. P. Miurin, "The banking system, monetary policy and economic transformation in Russia: 1992 - 1994", MOCT-MOST 5, 1995, pp. 55-70.

36. A. J. Cornford, "Selected features of financial sectors in Asia and their implications for services trade", UNCTAD Discussion Paper No. 129, September 1997.

37. The general rule governing accession is set out in Article XII, paragraph 1, of the Agreement Establishing the World Trade Organization, under which a State or separate customs territory may accede to the WTO on terms to be agreed between it and WTO members. This may mean in practice that while the rules and disciplines of the WTO Agreements provide reference levels of obligations for members, other issues may be subject to negotiations and pressures from WTO members in the accession process.

38. Singapore Ministerial Declaration, WTO document WT/MIN(96)/DEC, 18 December 1996.

39. The protocols of accessions of Poland, Romania and Hungary contained "non-standard" GATT obligations, in particular special (selective) safeguard clauses contrary to GATT Article XIX, which GATT contracting parties could apply against imports from these countries. In addition, Poland undertook to increase the total value of its imports from GATT contracting parties by not less than 7 per cent per annum (later this formula was to cover three-year periods), while Romania assumed a more general obligation in the same direction. Under the terms of accession, special GATT working parties were set up to monitor the trade regimes of these three countries. As a result, the "quality" of their GATT membership was substantially reduced, and they were treated differently as compared with "normal" GATT contracting parties. In the early 1990s, GATT working parties on the renegotiation of the terms of accession of Poland, Romania and Hungary were set up and are still operational, although they have not been very active.

40. At present, the United States applies MFN treatment to all but six countries: Afghanistan, Cuba, the Lao People's Democratic Republic, the Democratic People's Republic of Korea, the Federal Republic of Yugoslavia (Serbia and Montenegro) and Viet Nam. In addition, conditional MFN status is granted by the United States to the so-called non-market economies under Title IV of the 1974 Trade Act, subject to compliance with the freedom of emigration provisions (Jackson-Vanik Amendment, Section 402 of the Trade Act) and conclusion of a bilateral trade agreement with the United States providing reciprocal treatment (Section 405). Countries currently subject to these provisions, requiring annual waivers from the Jackson-Vanik Amendment, are Belarus and China. Albania,Armenia, Azerbaijan,Georgia,Kazakhstan, Kyrgyzstan, Moldova, Mongolia (Article XIII - non-application - was invoked by the United States upon completion of Mongolia's accession negotiations in 1996), Russia, Tajikistan,Turkmenistan,Ukraine and Uzbekistan have been determined to be in full compliance with the Jackson-Vanik amendment, but not graduated from this provision, and thus receive "permanent" conditional MFN treatment without annual extension, but subject to semi-annual reports to the United States Congress. The Islamic Republic of Iran, Iraq and the Libyan Arab Jamahiriya retain MFN status with the United States, but their exports to the United States are prohibited under the US economic embargoes' legislation.(Source: WTO, *Trade Policy Review of the United States*, Report by the WTO Secretariat, (WT/TPR/S/16), 21 October 1996; and "1998 Trade Policy Agenda and 1997 Annual Report of the President of the United States on the Trade Agreements Program", p.220, Washington DC, March 1998).

41. For example, some of the new members undertook to notify, upon their accession, the Committee on Government Procurement of their intention to accede to the Agreement on Government Procurement, and also to initiate negotiations for membership of the Agreement prior to a specified date. One country (Bulgaria) committed itself to accede to the Agreement on Trade in Civil Aircraft at the time of its WTO accession to the WTO.

42. See WTO, WTO Agreements with the Fund and the Bank (doc. WT/GC/W/43), 4 November 1996, p. 5.

43. The schedules of Ecuador, Panama, Mongolia and Bulgaria, the last countries to become WTO members, in general reflect a broad coverage of sectors with commitments for a liberal regime in trade in services. Commitments were undertaken basically in all sectors, according to the GATS classification, by Bulgaria, Panama and Ecuador (except educational services), while Mongolia did not include educational, environmental, health related, recreational and transport services. In its horizontal commitments every country has included provisions on movement of natural persons for intra-corporate transferees, business visitors and key personal with somewhat differing interpretations. Panama and Ecuador indicated quantitative limits on participation of foreign natural persons in their respective national workforces. Only Bulgaria, in addition to movement of natural persons, included subsidies, real estate, commercial presence and privatization (the latter is characteristic of economies in transition) in their horizontal commitments. With the exception of Mongolia, which made no MFN exemptions, all countries included audiovisual sector into Article II exemptions and all of them stated an indefinite duration for relevant measures (while the formal requirement is for no more than ten years). Panama , in addition, indicated a reciprocity requirement in obtaining authorization for provision of professional services, while Bulgaria included provision of legal, medical-

dental and transport services in the MFN exemption list as well. The most liberal regime for the sectors included in the schedules is in Mongolia, which has bound cross-border supply, consumption abroad and commercial presence at the level of no restrictions to market access and with provision for full national treatment (no differential treatment or requirements for foreign economic agents). Ecuador has similarly a very liberal schedule on trade in services, although in defining the insurance sector it included its own classification and did not bind consumption abroad or cross-border trade. As regards most of the commitments of the new members in various service sectors, commitments on market access are identical to those on national treatment. Bulgaria has included an economic needs test in its schedule as a tool for regulating the supply of accounting and wholesale and retail services. Periods of transition to a more liberal trading regime were included in the Bulgarian (insurance sector) and Panamanian schedules (five years until full liberalization in provision of the relevant telecommunications services).

44. As the agreement between the European Union and the Russian Federation on trade in textile products expired on 31 December 1996 and since it was not renewed, the Commission established for a period of three months an autonomous regime for imports of textiles and clothing products originating in the Russian Federation, which entered into force on 1 January 1997. This regime, after being extended until 30 June 1997, was further extended for 6 months until 31 December 1997.

45. This covers Section 406 action by the United States.

46. In addition to EU, USA and Japan, Canada has made all CIS countries eligible for its GSP scheme. In It is interesting to note that the same has been done by the Czech Republic and Slovakia but not by other Central European countries, and not by such developed countries as Norway or New Zealand.

47. The tariff modulation mechanism allows for rates to be varied according to the sensitivity of product categories. The graduation mechanism provides the criteria for excluding specific country/sector combinations, taking into account the country's "overall level of industrial development" and its "level of export specialization" in the product category in question. WTO, Trade Policy Review, European Union, Report by the Secretariat, October 1997.

48. WTO, Trade Policy Review, United States, Report by the Secretariat (WT/TPR/S/16, 1996) page 51; and the latest information from the USTR in the recent changes in the GSP programme in the Internet, 19 January 1998.

49. USTR Strategic plan FY 1997 - FY 2002, Office of the United States Trade Representative, September 1997.